

## **Lincoln County Commissioners Minutes for November 20, 2017**

**Present: Chairman Cresley McConnell, Commissioner Rebecca Wood, Commissioner Roy Hubert, Brenda Farnworth, Clerk for minutes.**

9:30am Chairman McConnell called the meeting to order and led everyone in the Pledge of Allegiance.

Minutes, Claims

**Commissioner Wood made a motion to approve the minutes for the November 13, 2017 for the Regular Meeting with corrections of; adding a note of the Ambulance meeting break and changing the sponsor of the Venture Scouts from the County to the Sheriff's Department. Commissioner Hubert seconded. Vote unanimous in favor, motion carries.**

**Commissioner Wood made a motion to approve the claims for November 20, 2017 for \$42,190.37. Commissioner Hubert seconded. Vote unanimous in favor, motion carries.**

**Commissioner Wood made a motion to approve the Indigent claims for November 16, 2017 for \$630.00. Commissioner Hubert seconded. Vote unanimous in favor, motion carries.**

Correspondence

Don Hudson sent the Commissioners a letter announcing those who received the rank of Eagle Scouts in Troop 58 and requested the Commissioners send a letter of acknowledgement. Commissioners agreed. Commissioner Hubert will also discuss with Dietrich Scout Troop and Commissioner Wood will contact Richfield Scout Troop for Eagle Scout Rank achieved so all troops are recognized equally.

Commissioner Hubert reported that the Transfer Station property from BLM is still in Washington DC.

Commissioner Hubert reported that John Larson with Shoshone School will report to the Commissioners after the next School Board Meeting. There is a First Right of Refusal for the property for Lincoln County.

Chairman McConnell discussed an expenditure report for wages from 2015 for the Sheriff's Department being under budget for reserves and overtime. Discussion on the report and the difference with the current Sheriff's Department's expenses. Will ask the Sheriff and Chief Deputy to the next meeting.

10:00am Commissioner Residency Determination

Don Hudson, Tammy Swaner, Ann Youts, and Linda Jones present

**Lincoln County Commissioners  
Statement of Facts and Findings  
Matter of Commissioner Cresley McConnell Residency**

Statement on November 20, 2017 at 10:00am as recorded in the Lincoln County Commissioners Meeting.

Chairman McConnell recused himself from the meeting and Commissioner Wood acted as Chair.

Commissioner Rebecca Wood;

Last week Commissioners received a determination letter from their law firm along with information from ICRMP, the Attorney General and Commissioner McConnell's lawyer.

Commissioner Wood, acting as Chairman, asked for Commissioners statement of findings and asked Commissioner Hubert to go first.

Commissioner Roy Hubert;

The issue started with two requests that the Commissioners received about Cresley McConnell's residency. An email from Don Hudson and Tammy Swaner on September 18, 2017 and a letter from Crystal Naylor, dated October 3, 2017. Commissioner McConnell recused himself from the issue as well as Prosecutor E. Scott Paul, and Commissioner Hubert and Commissioner Wood were left to take due diligence and hired an attorney, Tug Worst firm.

The Commissioners received a letter from Mr. Worst and they went back one-step further, to review pre-election and post-election statutes. Pre-election statutes being Idaho Code Section 34-617 and 31-702, as quoting Mr. Worst in a letter from October 24, 2017, "Based on the information provided, it appears that this pre-election resident requirement was satisfied by Cresley McConnell."

They then moved on to handle the issue to the Commissioners pertaining to Idaho Code 59-901. Quoting again from Mr. Worst, "Thus if Cresley McConnell at any moment after his election as a Commissioner, ceased to be a resident of the District for which he was elected, then his office as Commissioner should have been automatically deemed vacant."

"2. For purposes of determining whether a vacancy in a County Commissioner seat has occurred, the term resides has its meaning as stated in Idaho Code 34-107, which provides as follows; "Residence," for voting purposes, shall be the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which his habitation is fixed and to which a person, whenever he is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of the absence."

b. The Attorney General's office issued an opinion in 1992 regarding the post-election residency of a County Commissioner from Latah County who got married and lived with

his wife in the County, but not in the District the Commissioner represented.” Side note, this opinion is available on the internet.

Again to quote Mr. Worst;

“c. The Attorney General ultimately decided that although the subject Commissioner was not physically present the majority of the time at his property to be his residence, and had a fixed habitation there, and thus it was the residence, the Commissioner's seat was therefore never deemed vacant.” And in this example the Commissioner had at least a year where he could make improvements on this property.

Again to quote Mr. Worst;

“3. Cresley McConnell had no alternative but to sell his home in the District he represented because it was decreed in a divorce settlement. Like the previous State Attorney General's opinion, he moved in with his wife who was not within his District.

4. Most importantly, what Cresley McConnell's intention have been during all relevant times and what his intentions are today regarding his residency.

a. Cresley McConnell purchased in-District property immediately after the sale of his mandated property sale.”

Commissioner Hubert went back in the letter, under item c., sewer, water and electricity was an important factor that the Attorney General gave his opinion on.

Again to quote Mr. Worst;

“b. He has electricity on his property in his name with a current address. He has a building permit for his in-District property.”

Researching, asking for further information from Commissioner McConnell, in discussion as advised by Attorney. If he were to order a modular home, it could not be delivered until next spring. A stick built home would not be wise during the cold winter months.

After reading the Attorney's letters and the full content of the Attorney General's opinion, it is my contention that Commissioner McConnell has met all of the requirements of the Attorney General's opinion and therefore his Commissioner seat was never deemed vacant.

Commissioner Wood.

Stated she went more strictly by Attorney's recommendations, which are basically, if  $A + B = C$ , then your outcome is Commissioner McConnell is good. If  $A + B = D$ , then Commissioner McConnell is not good and the Commissioners were given specific questions to answer to come to those conclusions. That is what she based her opinion on was the answer to those questions.

Having hired an independent law firm to define the Idaho State Statutes for elected officials and to specifically look into the matter of residency for Commissioner Cresley McConnell and having received the recommendation of that law firm, who also used opinions of law from ICRMP and the Idaho State Attorney General, I feel we have done our due diligence into investigating this matter.

Where Idaho has clear pre-election requirements and post-election requirements and Commissioner McConnell has complied with both pre and post requirements and he has had a room made for his sole use inside his District at all times since his house sold. And, where he has proven to have purchased property in his District, has a building permit and address and electric bill at this property, and where Commissioner McConnell can prove through written and oral contracts from the time previous to the sale of his home, to reside in his elected District. And, where Commissioner McConnell was required to sell his home to satisfy a District Judges orders through divorce hearing, it is clear that he is not out of compliance with the Idaho Statutes on pre- and post-election residency.

Commissioner Wood recommended that they take no further action at this time.

Commissioner Wood spoke with ICRMP that morning as how to handle the situation in the meeting in this unusual situation. ICRMP advised that the Commissioners make a motion to either take further action, or take no action at this time.

**Commissioner Hubert made a motion that under this situation that Commissioner Wood and Commissioner Hubert do not take any further action on this matter. Commissioner Wood seconded the motion. Commissioner Wood asked if there was any further discussion. Hearing none a vote was called for. Vote unanimous in favor, motion carries.**

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Rebecca Wood, Vice-Chair

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Roy E. Hubert, Commissioner

Attest:

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Brenda Farnworth, Clerk

Don Hudson requested a copy of the findings. Commissioner Wood responded that the letter was under Attorney Client Privilege and the attorney advised not to give them out.

Don said he would be filing a suit and would get them at discovery.

E. Scott will contact Tug Worst to be advised that there may be a filing against the Commissioners. Commissioner Wood discussed the advice from ICRMP. Because of the motion, this is no longer a County legal matter. It will be in the hands of Chairman McConnell's legal counsel alone.

Discussion with Chairman McConnell what was said in the meeting of residency and the letters from the attorneys are confidential.

Vice Chair Wood turned the meeting back over to Chairman McConnell.

10:25am

Old/New Business

Treasure's Cash report discussion on financial holdings.

Chairman McConnell discussed the damage to one of the buildings at the maintenance yard from the garbage collection. A claim has been made by the City to have the damage repaired.

Resolution 63-602NN needs to be retyped.

Commissioner Wood had nothing new on web site at this time.

10:30am White Chevy Truck as surplus

Sheriff Rodriquez, Chief Deputy Phillips present

The 2004 vehicle is not running. It has transmission issues, electronic problems, and other issues discussed. The Sheriff would like to surplus the vehicle so it can be auctioned.

Discussion on the process to surplus and auction the vehicle. Discussion on other vehicles that are owned and to be traded in for the new vehicles or to be deemed surplus and auction.

Commissioner Hubert would like to see the appraisal for the used vehicles for trade-in. He talked about the maintenance yard and the improvements it may need. He wants to see what it will take to make this property secure for impounds.

Discussion on the process for the new vehicles and the trades whether it will be in the form of a check or netted off the lease. No one is sure at this time, haven't heard from the leasing company.

Commissioner Hubert discussed the lease with a regular bank and felt we could buy out the lease at day one and the bank would have better leasing options. Will pursue more information.

Commissioner Hubert mentioned that he is still not comfortable with the County leasing so many vehicles.

Commissioners want to see a list of all vehicles: model, year, mileage, and issues if any.

10:54am Email Speed Issues

Sheriff Rodriguez mentioned he was having issues pulling up emails. Discussion on email providers and speed in the courthouse. The Sheriff's office uses Hostway and that could be the issue. Suggestions of setting up specific gmail address for County use and linked to county

email by Assessor Linda Jones were discussed. Sheriff Rodriguez will look into changing email provider to Outlook or Live mail.

Sheriff Rodriguez discussed a training he and two other deputies attended for task force crime scene investigations.

Discussion on an Alert Sense App for smartphones.

Old/New business

New Courthouse. Clerk Farnworth will contact Colby Ricks and review the new plans worked on by the group.

Discussion on the limited space on the lot across the street and if we should do a 'Judicial Only' plan. Commissioners McConnell and Hubert felt it isn't cost effective to save such small space for later, as the majority of the space is the judicial offices.

11:21am Animal Ordinance

Chairman McConnell spoke to Mike at the Gooding Police Department. They presented a proposal for housing dogs from the County and City of Dietrich.

Discussion on the number of kennels that may be needed, terms of the ordinance including what to do when animals are not picked up after 5 days up to 10 days. Chairman McConnell will follow up and get more information.

Commissioner Wood discussed proactive ways to get the dogs back to the owner before the 10-day limit for kenneling.

Discussion on the conflict of interest by Dr. Inbar issuing a license and having in the ordinance mandatory rabies shots for a license. We may be putting Dr. Inbar in an uncomfortable position. Need to look at other alternatives.

11:39am Approve Christmas Dinner Bid – TMMD Catering and Holiday Gift Certificates for Turkey or Ham \$25.00

Clerk Farnworth presented the number of people who will be attending the Christmas Party and the menu and bid from TMMD Catering.

**Commissioner Hubert moved to approve the Christmas Party dinner bid from TMMD Catering at a guaranteed minimum of 60 at \$16.00 per plate. Discussion. Commissioner Wood seconded. Vote unanimous in favor, motion carries.**

Discussion on the gift certificate for employees for \$25.00 each to use for a turkey or ham at Pipers in Richfield or Sawtooth Foodtown in Shoshone; to expire December 31<sup>st</sup>.

**Commissioner Wood made a motion to approve the holiday turkey gift certificate for \$25.00 for each employee. Commissioner Hubert seconded. Discussion to include the Ambulance District and wording on certificate. Vote unanimous in favor, motion carries.**

Correspondence:

Subscription for the continuation and support of the Camas Courier. Commissioner Wood agrees the County should subscribe to the paper. The paper has been sent to the County as a courtesy. Clerk Farnworth will add it in the next claims

11:51am

E. Scott discussed his concerns regarding the lease/rental agreement for the Ambulance Building owned by Larrin Sant. Reasoning, he will not be available in the afternoon when it is scheduled for the Ambulance District Meeting.

11:53amNew Business:

Chairman McConnell discussed an inquiry from a patron about a 15-acre county owned property north of Shoshone by the gravel pit. They may be interested in purchasing the property. It can't be sold outright, but would have to be put up for auction. E. Scott will investigate how the County came to own it.

12:00pm Chairman McConnell adjourned the meeting for lunch.

1:00pm Chairman McConnell called the meeting to order.

**Commissioner Wood made a motion to go into Executive Session pursuant to IC 74-206(1)(d) Indigent. Commissioner Hubert seconded. Vote; Commission Wood, aye; Commissioner Hubert, aye; Chairman McConnell, aye. Vote unanimous in favor, meeting adjourned to Executive Session.**

1:26pm Chairman McConnell adjourned Executive Session and re-convened the Regular Meeting.

**Commissioner Wood made a motion in case 2018006 to approve . Commissioner Hubert seconded. Vote unanimous in favor, motion carries.**

**Commissioner Wood made a motion in case 2017043 to extend the hearing for 30 days. Commissioner Hubert seconded. Vote unanimous in favor, motion carries.**

**Commissioner Wood made a motion in case 2018008 to deny for lack of interview. Commissioner Hubert seconded. Vote unanimous in favor, motion carries.**

1:29pm Juvenile Justice Annual Financial Report

Linda Boguslawski distributed the document for Juvenile Justice Annual Financial Report. Discussion on the funds included in the report.

**Commissioner Hubert moved to allow Chairman McConnell to sign the Juvenile Justice Annual Financial Report for 10/1/16 to 9/30/17. Commissioner Wood seconded. Vote unanimous in favor, motion carries.**

1:33pm Chairman McConnell adjourned the Regular Meeting and opened the Ambulance District Meeting. (Minutes are separate)

2:07pm Chairman McConnell adjourned the Ambulance District and convened the Planning & Zoning Hearing. ( Minutes are separate)

3:23pm Chairman McConnell adjourned the Planning & Zoning Hearing and reconvened the Regular Meeting

Discussion on Auditors Payroll worksheet and Sheriff's Department comp payouts and the overtime budget. The Commissioners want to visit with the Sheriff and Chief Deputy Phillips in the next meeting.

3:54pm Commissioner Wood discussed a complaint on Community Center's cleanliness. The complaint was regarding a mess in the women's bathroom. The mess was still there when Commissioner Wood went back a few days later. She also observed gum on the premises on November 6<sup>th</sup> and two weeks later the gum was still there.

The Commissione4s will meet with Carmen in the next meeting.

4:00pm Donation Request for NACO WIR in Blaine County

A letter was presented to the Commissioners for a donation up to \$2,500. Discussion on the amount of donation.

**Commissioner Wood moved to donation \$500 to help put on the NACO WIR to be held in May, 2018 in Blaine County. Commissioner Hubert seconded. Vote unanimous in favor, motion carries.**

4:11pm

Gem Plan – Board of trustees Nomination

Clerk Farnworth read the nomination into the minutes. Discussion on the current Board. No nomination changes will be made. If no changes are to be made, then the form does not need to be returned.

**Commissioner Hubert made a motion to not send in any nomination for Gem Plan, which is a vote for A. Ladd Carter. Commissioner Wood seconded. Vote unanimous in favor, motion carries.**

4:17pm

CTR Cleanup & Total Restoration bid for cleaning the basement to fix the mold issue.  
Discussion on the bid.

**Commissioner Wood moved to approve the bid from CTR Cleanup & Total Restoration for \$3,504.05 for the cleanup of the mold in the basement. Commissioner Hubert seconded. Vote unanimous in favor, motion carries.**

Chairman McConnell will follow up with CTR.

Commissioner Hubert will work with Magic Valley Electric to repair the county generator.

Discussion on the Hinkle lease agreement for Sheriff Department vehicles. Commissioner Hubert read into the minutes the section of the contract where he has concerns. Discussion on the on contact terms.

4:45pm

**Commissioner Hubert moved to adjourn the meeting. Commissioner Wood seconded. Vote unanimous in favor, motion carries.**

Respectfully,  
Brenda Farnworth, Clerk

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Cresley McConnell, Chairman

Attest:

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Brenda Farnworth, Clerk