

**WORLEY HIGHWAY DISTRICT BOARD OF COMMISSIONERS
REGULAR MEETING
December 27, 2023
9:00 A.M.**

MINUTES

Commissioner Phil Cooper called the meeting to order at 9:03 a.m. with Commissioner George Miller and Commissioner Corinne Johnson present. Also present were Director Kevin Howard, Deputy Director Dustin Howe, Clerk Charyl Ragan, and Deputy Clerk Jennifer Weeks.

Approval of Agenda

Miller moved to approve the agenda as presented. Johnson seconded the motion. Cooper concurred. The motion passed unanimously.

Conflicts of Interest on the Agenda

Cooper asked if any board member had a conflict of interest with any item on the agenda. Corinne Johnson, George Miller, and Phil Cooper each indicated no conflicts.

Approval of Minutes

Miller moved to approve the minutes of the December 13, 2023, regular meeting. Johnson seconded the motion. Cooper concurred. The motion passed unanimously.

Public Comments and Guest Introduction

none

Old Business

Drechsel Rd

JUB provided the speed study, They recommended a speed change from 35 mph to 40 mph. They indicated that none of the criteria was met to install radar speed signs using district \$, the cost would need to be incurred by the homeowner(s).

Johnson motioned to not increase the speed limit as recommended, Cooper seconded, Miller concurred. The motion passed unanimously.

Koth Road

No additional information this month.

Rockford/Loffs Intersection

The district attorney is working on the last ROW acquisition.

Kidd Island Project-ROW Acquisition

The district attorney is working on ROW acquisitions.

Greensferry Guardrail

Drilling has begun, WHD crew assisted with traffic control to allow delivery vehicles through due to the busy time of year.

New Business

Findings of Fact, Conclusions of law, Decision, and order road #20

Miller moved to accept resolution #2023-06, Johnson seconded, Miller concurred The motion passed unanimously. Jennifer took roll, Johnson aye, Miller aye, Cooper aye.
See attached resolution #2023-06 and FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER.

Work Progress Report

On The Road

Plowed snow, sanded, and applied anti-ice to roadways as needed throughout the month.

Roads were checked district wide for tree debris caused from high winds. Debris found was removed.

Roads were checked district wide for water runoff damage due to rain and melting snow. Water was channeled off and away from the road as needed.

Roadside brush clearing was performed during fair weather and in selected areas.

A culvert was replaced under Idaho Road.

The crew assisted the core drilling contractor on Greensferry Road with traffic control. JUB engineers will use the cores samples for design purposes for the Greensferry Road guardrail project.

Some of the crew filled potholes in some of the gravel roads.

Planned work for this coming Month.

Ditching and culvert cleaning or replacement as needed.

Winter road maintenance (i.e. snow plowing, sanding and anti-icing).

Roadside Brush clearing.

In The Shops

Deputy Director Dustin Howe has prepared a shop report for the board.

Accounts payable register presented for approval.

Miller moved that the bills be approved as presented. Johnson seconded the motion. Cooper concurred. The motion passed unanimously.

Upcoming Meetings

January 10, 2024. WHD Board meeting 9:00 a.m.

January 11,2024, KMPO 1:30 p.m.

February 1, 2024, (Thursday) WHD Board meeting 9:00 a.m.

Commissioner Comments

none

Adjournment

Citing no further business, Cooper moved to adjourn the meeting at 9:47 a.m. Johnson seconded the motion. Miller concurred. The motion passed unanimously. Meeting adjourned.

RESPECTFULLY SUBMITTED BY:



Jennifer Weeks, Deputy Clerk

APPROVED BY:



Phil Cooper, Chair

Date 1/10/24

BEFORE THE BOARD OF COMMISSIONERS OF
WORLEY HIGHWAY DISTRICT

In the matter of:)
)
Road Vacation Petition for a)
Portion of Road No. 20 in)
Worley Highway District)

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, DECISION AND ORDER**

FINDINGS OF FACT

1. A Petition dated March 18th, 2023, to Vacate Portion of Road No. 20, ("Petition") was filed with WORLEY HIGHWAY DISTRICT ("WHD") by The Richel Family Trust, Greg Patrek and Eagle Investment Group, LLC. ("Petitioners").
2. Petitioners request in the Petition that a portion of a public right-of-way known as Road No. 20, located in Kootenai County, Idaho, as more specifically described in Exhibit A attached hereto and as described and depicted in the Record of Survey recorded on October 18, 2021, in Book 31 of Surveys at page 942, records of Kootenai County, Idaho, (the "Affected Right-of-Way"), be vacated and abandoned.
3. The Affected Right-of-Way previously was validated as a public Right-of-Way by WHD, which decision was affirmed by the District Court and by the Idaho Supreme Court.
4. Petitioners request that the Affected Right-of-Way be vacated and abandoned to Petitioners' adjoining and abutting properties (the "Abutting Properties").
5. The Affected Right-of-Way encompasses approximately 3.2 acres more or less.
6. The WHD Commissioners determined that a public hearing should be conducted on September 27, 2023, to consider the petition.
7. Notification of the hearing to consider the Petition was provided to abutting Property owners and to Heyburn State Park advising that WHD would consider the Petition at a public hearing, scheduled for September 27th, 2023, and that the public could view the Petition and related materials at the WHD office.
8. Newspaper notice of the hearing to consider the Petition was published in the official newspaper(s) of record.
9. Notice of the public hearing was sent to operators of underground facilities. No operators of underground facilities responded and made comments; except, Kootenai Electric Cooperative which responded by email that it has no equipment in the affected Right-of-Way. There are no known or suspected operator of facilities in the Affected Right-of-Way.
10. No written opposition to the Petition was received.

11. A summary of testimony presented at the September 27, 2023, hearing is as follows:

- a. Kevin Howard, WHD Director testified regarding WHD's receipt of the Petition; entered into the record the Amended Findings of Fact and Conclusions of Law of the prior validation proceedings related to the Affected Right-of-Way; that notices were mailed and newspaper notice was placed in accordance with Idaho Code Section 40-203; that the only correspondence received was from Kootenai Electric Cooperative; that he estimated the fair market value of the Affected Right-of-Way based on Kootenai County appraisals of the adjoining parcels, to be \$63, 582.17.
- b. Scott Poorman testified as attorney for the Petitioners regarding ownership of parcels adjoining the Affected Right-of-Way; regarding cross access easements for the adjoining parcels that provide access for Petitioners' properties to a public road; that the Affected Right-of-Way ends at the Western boundary of Heyburn State Park; that there is currently a fence which currently prevents direct vehicular access to Heyburn State Park from Road 20; that the Petitioners do not want Road 20 to be used by the public as a public right-of-way and are therefore in support of the Petition for vacation and abandonment; that Mr. Howard's fair market value analysis is not correct; that the fair market value should be calculated based on the County's farm property tax discounted value; and that the Petitioners are willing to obtain an appraisal of the Affected Right-of-Way.
- c. Greg Patrek testified that he purchased a parcel from Jeanie Buehl which abuts the Affected Right-of-Way; that he now has access by virtue of a recorded easement, and that he supports the vacation and abandonment of the Affected Right-of-Way.
- d. Darlene Richel Sheldon testified that her property has been in her family since 1930; that her family purchased the property then known as the Danforth parcel from the County for back taxes; that an elk herd sometimes uses her property; and that the public sometimes comes onto her property via Road 20 to view the elk herd and leaves behind trash; and that she supports the vacation and abandonment of the Affected Right-of-Way.

12. After all persons desiring to provide testimony had an opportunity to do so, the September 27th, 2023, public hearing was closed to further testimony.

13. After the conclusion of the September 27th, 2023, public hearing, the WHD Board of Commissioners determined a decision regarding the petition and the appropriate conditions to impose, and the fair market value should be deferred to a future meeting.

14. There are no utilities or other facilities known to be located with the Affected Right-of-Way.

15. The Affected Right-of-Way is within the jurisdiction of WHD.
16. All real property abutting the Affected Right-of-Way is owned by Petitioners.
17. None of the Petitioners are the party or parties who dedicated the Affected Right-of-Way to the public.
18. The Affected Right-of-Way provides potential alternate access to Heyburn State Park. Additionally, it is desirable that the Affected Right-of-Way be retained as a public right-of-way for public access to future parcels as future redevelopment.
19. The Affected Right-of-Way is a significant public asset, with significant economic value. It is not in the best interest of the public to vacate and abandon the Affected Right-of-Way unless the public receives significant compensation for the conversion of the public asset to private property, which would result in the exclusion of the public from the right to use the Affected Right-of-Way.
20. It is not in the best interest of the public that the Affected Right-of-Way be vacated and abandoned, unless the payment by the Petitioners to WHD of the fair market value is first received. These funds could be used by WHD for the construction and maintenance of other public roads within WHD, thus, resulting in a benefit to the public.
21. Based upon the testimony at the public hearing, the fair market value of the Affected Right-of-Way exceeds \$2,500. The best evidence of the fair market value of the Affected Right-of-Way is the testimony of Kevin Howard. Based on County appraisals of nearby properties, including the Petitioners' properties, the best evidence of the fair market value of the Affected Right-of-Way is the amount of \$63,582.17. Should Petitioners choose to pay this amount, the WHD Commissioners may reconsider this decision and find that it is in the best interest of the public to vacate and abandon the Affected Right-of-Way conditioned upon payment of \$63,583.17. The WHD Commissioners are unable to find at this time that it is in the best interest of the public to vacate and abandon the Affected Right-of-Way as requested in the Petition.

CONCLUSIONS OF LAW

1. Vacation and abandonment of the Affected Right-of-Way is not in the best interest of the public and WHD at this time

RIGHT TO APPEAL

From this decision, any resident or property holder within the highway district system, including the state of Idaho or any of its subdivisions, or any agency of the federal government, may appeal to the district court of the county in which the highway or public right-of-way is located pursuant to section 40-208, Idaho Code, by filing a petition in the district court of the

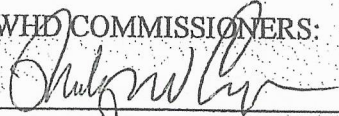
county in which the commissioners have jurisdiction over the highway or public right-of-way within twenty eight (28) days after the filing of the final decision of the commissioners.

DECISION AND ORDER

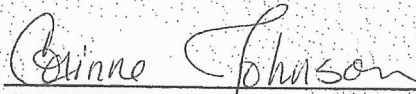
IT IS THEREFORE ORDERED by the Commissioners of WORLEY HIGHWAY DISTRICT, pursuant to Idaho Code §40-203, that the Affected Right-of-Way legally described in Exhibit A shall not be abandoned and vacated.

DATED this 27th day of June, 2023.

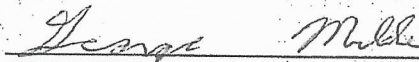
WHD COMMISSIONERS:



PHIL COOPER



CORINNE JOHNSON



GEORGE MILLER

ATTEST:



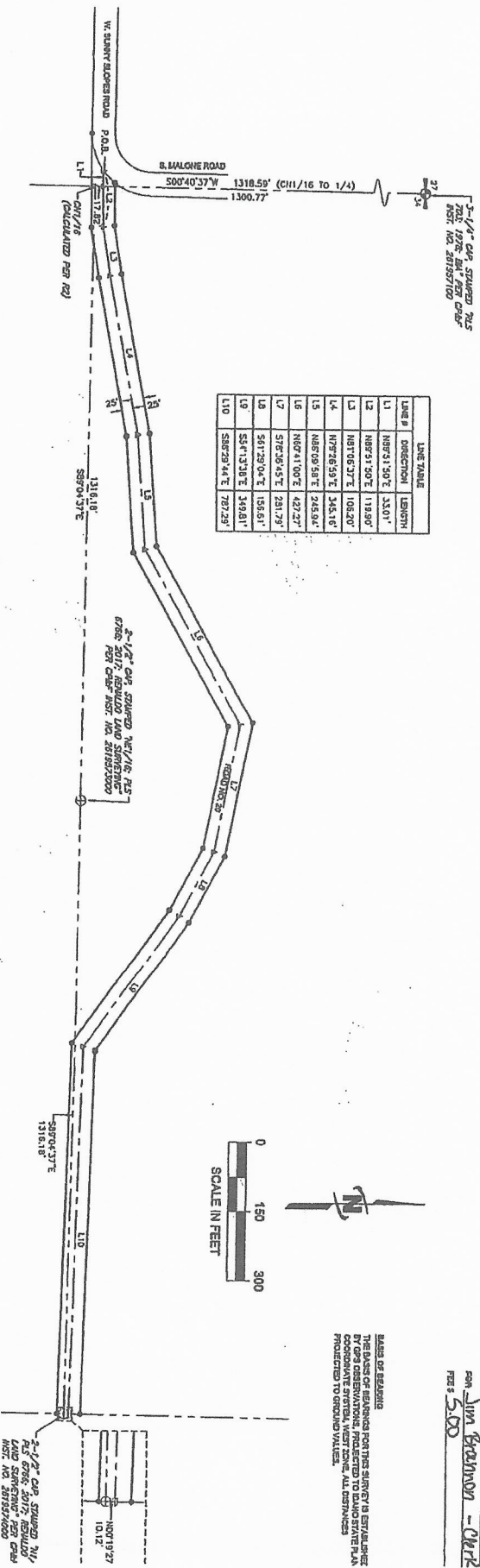
Clerk

Exhibit A

RECORD OF SURVEY A PORTION OF THE NW1/4 AND NE1/4 OF SECTION 34, TOWNSHIP 47 NORTH, RANGE 4 WEST, B.M., KOOTENAI COUNTY, IDAHO

BOOK 31 PAGE 918
 REEL NO. 28182959
 AT THE REQUEST OF ALICE SANDER
 THIS RECORD OF SURVEY WAS MADE
 AT 85 P.M. ON 18 OCTOBER 2012
 BY DEBRA RICHARDS - D.R.
 FOR ALICE SANDER - ALICE
 FEE \$ 5.00

LINE #	DIRECTION	LENGTH
L1	N89°31'50"E	35.01'
L2	N89°51'50"E	119.90'
L3	N81°06'37"E	108.20'
L4	N79°28'59"E	345.18'
L5	N85°08'58"E	245.94'
L6	N80°41'00"E	427.23'
L7	S78°30'45"E	281.75'
L8	S41°13'38"E	155.61'
L9	S41°13'38"E	149.81'
L10	S88°29'44"E	789.29'



DATE OF BEARING
 THE BASIS OF BEARINGS FOR THIS SURVEY IS ESTABLISHED
 BY GPS OBSERVATIONS, PROJECTED TO DAVID STATE PLAIN
 PROJECTED TO GRID COORDINATES.

2-1/2" CAP, STAMPED N1/4
 PLS 6786, 2012, REBULOID
 HOC NO. 581837400

LEGAL DESCRIPTION
 A STRIP OF LAND 10 FEET IN WIDTH ADJACENT TO THE NORTH 1/4 OF SECTION 34, TOWNSHIP 47 NORTH, RANGE 4 WEST, MERIDIAN, KOOTENAI COUNTY, IDAHO, SAID STRIP BEING 25 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:
 COMMENCING AT THE NORTH 1/4 CORNER OF SAID SECTION 34, THENCE SOUTH, OVER THE WEST ALIAS THE CENTER OF SAID SECTION 34, A DISTANCE OF 1345.9 FEET, MORE OR LESS, TO THE CENTER-NORTH 1/4 CORNER OF SAID SECTION 34; THENCE NORTH 67-DEGREE EAST, A DISTANCE OF 17.21 FEET;
 THENCE SOUTH 89-DEGREE WEST, A DISTANCE OF 34.1 FEET, MORE OR LESS, TO A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF WEST SANDY SLOPER ROAD; SAID POINT BEING THE POINT OF BEGINNING;
 THENCE LEAVING SAID RIGHT-OF-WAY LINE AND ALONG THE CENTERLINE OF ROAD NO. 20 THE FOLLOWING LINE COURSE:
 1. NORTH 89-DEGREE EAST, A DISTANCE OF 119.90 FEET;
 2. NORTH 79-DEGREE EAST, A DISTANCE OF 34.10 FEET;
 3. NORTH 81-DEGREE EAST, A DISTANCE OF 119.90 FEET;
 4. NORTH 89-DEGREE EAST, A DISTANCE OF 34.10 FEET;
 5. NORTH 81-DEGREE EAST, A DISTANCE OF 119.90 FEET;
 6. SOUTH 81-DEGREE WEST, A DISTANCE OF 34.10 FEET;
 7. SOUTH 79-DEGREE WEST, A DISTANCE OF 34.10 FEET;
 8. SOUTH 89-DEGREE WEST, A DISTANCE OF 119.90 FEET, MORE OR LESS, TO A POINT QUARTER CORNER MONUMENT;
 RIGHT-OF-WAY LINE OF WEST SANDY SLOPER ROAD; THENCE SOUTH 89-DEGREE WEST, A DISTANCE OF 17.21 FEET;
 CONTAINING 32 ACRES, MORE OR LESS.

REMARKS
 THIS SURVEY WAS PERFORMED AT THE REQUEST OF WORKER HIGHWAY DISTRICT TO SURVEY AND MONUMENT THE RIGHT-OF-WAY OF A PORTION OF ROAD 20 FROM THE INTERSECTION OF SOUTH MALONE ROAD AND WEST SANDY SLOPER ROAD EASTWARD TO THE EAST BOUNDARY OF SECTION 34, T14N, R4W, IDAHO.
 THIS SECTION OF ROAD 20 HAS BEEN FLOWED OVER AND ONLY WIDE REMAINDERS OF THE FORMER ROAD REMAIN. WORKER HIGHWAY DISTRICT MONUMENTED THE PORTION OF THE ROAD FROM THE INTERSECTION OF SOUTH MALONE ROAD TO THE EAST BOUNDARY OF SECTION 34. THIS MONUMENTATION WAS CHALLENGED AND UPHOLD IN DISTRICT COURT IN CASE NO. OCT030004. THIS CASE WAS APPEALED AND THE IDAHO STATE SUPREME COURT HAS AFFIRMED. THIS IS RECONCILED IN OPEN RECORD AND IS RECORDED NUMBER 4972.
 THE ROAD RIGHT-OF-WAY WAS SURVEYED AND REDEFINED USING A NUMBER OF HISTORIC MONUMENTS AND A NUMBER OF SURVEY POINTS. THE MONUMENTS AND POINTS WERE DELETED ON THIS MAP AS CONSISTENT WITH OTHER LAPPED DESCRIPTIONS. THE TOPOCORRECTION OF THESE MONUMENTS AND POINTS WAS OBTAINED FROM THE DISTRICT COURT RECORDS. THE MONUMENTS AND POINTS WERE DELETED ON THIS MAP AS CONSISTENT WITH OTHER LAPPED DESCRIPTIONS. THE TOPOCORRECTION OF THESE MONUMENTS AND POINTS WAS OBTAINED FROM THE DISTRICT COURT RECORDS. THE MONUMENTS AND POINTS WERE DELETED ON THIS MAP AS CONSISTENT WITH OTHER LAPPED DESCRIPTIONS. THE TOPOCORRECTION OF THESE MONUMENTS AND POINTS WAS OBTAINED FROM THE DISTRICT COURT RECORDS.
 THE SURVEY COURT DECISION AND THE SURVEY COURT APPROVAL IS SHOWN HEREON.

- LEGEND**
- ⊕ QUARTER CORNER, AS NOTED
 - ⊙ FOUND ALUMINUM CAP, AS NOTED
 - ⊙ FOUND BRASS CAP, AS NOTED
 - ⊙ FOUND 6" DIAMETER CONCRETE MONUMENT
 - ⊙ CALCULATED POINT, NOTHING FOUND ON SET
 - ⊙ SET 6" NEMA WITH YELLOW PLASTIC CAP, MARKED
 - ⊙ 1/2" DIAMETER PLS 5441"
 - POINT OF BEGINNING

- RECORDED INSTRUMENTS**
- RI PLAT 2000, RECORD OF THE FIRST LUMBER HIGHWAY DISTRICT TRAIL LINED LOCATED IN KOOTENAI COUNTY, IDAHO, LOCATED IN THE RECORDS OF WORKER HIGHWAY DISTRICT.
 - RS RECORD OF SURVEY BY RUSSELL, KONGAVER, PLS 6246, DATED JUNE 24, 2004, INST. NO. 1468777
 - RE RECORD OF SURVEY BY KOOTENAI COUNTY, IDAHO
 - RI RECORD OF SURVEY BY CHRISTOPHER NEWLAND, PLS 6786, DATED JUNE 24, 2012, INST. NO. 28182959
 - RI SURVEY COURT OF DAVID ROCKERT NO. 4972, GRANTED FILED, JULY 22, 2010, APPEAL FROM THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO, CASE NUMBER 03-030004, UPHOLD WITH ALL RECORDS ATTACHED THEREON AS ORDERED THEREON.

JUB ENGINEERS, INC.
 7205 Handshake Way
 Coeur d'Alene, ID 83815
 P | 208 762-8787 W | www.jub.com
 DWG NAME: 2012-001_NOS
 DATE: 10/18/2012
 DR: SON CH: GUR SHEET 1 OF 1

