

Commissioners Minutes

September 5, 2023 – 3:30 p.m. to 3:31 p.m., and 3:43 p.m. to 3:48 p.m.

DISCUSSION AND POTENTIAL ACTION ITEM REGARDING ALLEGED VIOLATION OF OPEN MEETING LAW IN RELATION TO FY2024 BUDGET

Commissioners Brad Holton, Zach Brooks, and Leslie Van Beek

COO Greg Rast

Chief Civil Deputy Carl Ericson

Deputy PA Alex Klempel

Deputy PA Zach Wesley

Members of the media

Deputy Clerk Monica Reeves



DISCUSSION AND POTENTIAL ACTION ITEM REGARDING ALLEGED VIOLATION OF OPEN MEETING LAW IN RELATION TO FY2024 BUDGET

The Board met today at 3:30 p.m. for a discussion and potential action item regarding the alleged violation of the open meeting law in relation to the FY2024 budget. Present were: Commissioners Brad Holton, Zach Brooks, and Leslie Van Beek, COO Greg Rast, Chief Civil Deputy Carl Ericson, Deputy PA Alex Klempel, Deputy PA Zach Wesley, members of the media, and Deputy Clerk Monica Reeves. A request was made to go into Executive Session as follows:

EXECUTIVE SESSION – RECORDS EXEMPT FROM PUBLIC DISCLOSURE AND ATTORNEY-CLIENT COMMUNICATION, AND COMMUNICATE WITH LEGAL COUNSEL REGARDING PENDING/IMMINENTLY LIKELY LITIGATION

Commissioner Van Beek made a motion to go into Executive Session at 3:01 p.m. pursuant to Idaho Code, Section 74-206(1) (d) and (f) to discuss records exempt from public disclosure, and to communicate with the legal counsel regarding pending/imminently likely litigation. The motion was seconded by Commissioner Brooks and carried unanimously. Present were: Commissioners Brad Holton, Zach Brooks, and Leslie Van Beek, COO Greg Rast, Chief Civil Deputy Carl Ericson, Deputy PA Alex Klempel, and Deputy PA Zach Wesley. The Executive Session concluded at 3:43 p.m. with no decisions being made and no business brought forward. There was a possible failure of the audio recording at the beginning of this meeting at 3:00 p.m., so Deputy PA Klempel made a record and said prior to going into Executive Session, Commissioner Van Beek made a motion to go into Executive Session under subsections (d), records exempt, and (f) to communicate with legal counsel. The motion was seconded by Commissioner Brooks and the Board voted unanimously to go into Executive Session. The action was done on the open record but it's possible it was not audio recorded so that is why Deputy PA Klempel made a record.

The open meeting began at 3:44 p.m. with Commissioner Holton reading the following statement from the Board into the record:

"Recently, there have been public and social media comments that the Board of County Commissioners allegedly violated the Open Meetings Act in the process leading up to the adoption of the Fiscal Year 2024 tentative budget on August 17th and the final budget on August 30th. Although we as a Board do not agree with the allegations, in order to move forward, the Board acknowledges the alleged violations. With that acknowledgment, we believe that completes the cure for any violation. Prior to any final decisions related to the tentative or final budget, the following occurred:

- As presented in the public meeting for adoption of the budget on August 30th, the Board had meetings related to the budget that were open to the public on 21 different dates including 54 budget workshops.
- And each commissioner had informal discussions with the Chief Operating Officer during this time period that were not in open meeting, but the substance of those discussions were ultimately put on the record at a budget workshop or at the tentative budget meetings on August 15th or 17th.

Therefore, the Board's final action of adopting the tentative budget on August 17th and the final budget on August 30th were based solely on information in the public record with disclosure of all relevant information to the public so the public had full opportunity to comment on the final budget hearing on August 30th.

Although it's been alleged that deliberations were conducted at a meeting violative of the Open Meetings Act, no firm or final decision was rendered upon the questions then discussed, so any alleged impropriety of those meetings did not taint the final actions subsequently taken upon questions consistently considered at subsequent meetings because those subsequent meetings did comply with the provisions of the Act.

Out of abundance of caution, the Board will consider ratifying our August 17th and our August 30th decisions related to the budget at a public meeting on Thursday, September the 7th, at 4:00 p.m. We believe this cure is in good faith and in the best interest of Canyon County."

(A copy of the written statement is on file with this day's minute entry.) Upon the motion of Commissioner Brooks and the second by Commissioner Van Beek, the Board voted unanimously to adjourn. The meeting concluded at 3:48 p.m. An audio recording is on file in the Commissioners' Office.