

IDAPA RULE IDAPA FEE BOARD ACTION REQUIRED
 BOARD POLICY INFO ONLY, NO ACTION REQUIRED

AGENDA ITEM
Idaho Park and Recreation Special Meeting
October 28, 2024
North Region Service Center
Coeur d’Alene, ID

AGENDA ITEM: **HEYBURN RECREATIONAL RESIDENCE SITE AND FLOAT HOME APPRAISAL – LEASE PAYMENT FEES**

ACTION REQUIRED: **Board Action Required**

PRESENTER: **Susan Buxton, Director**

PRESENTATION

BACKGROUND INFORMATION ON LEASES AND THE 2024 APPRAISAL REPORT:

Heyburn State Park manages 143 Recreational Residence lots and 23 Float Home “lots”. They are managed through two different written lease agreements that utilize many of the same basic terms. The Recreational Residence lot leases are for a duration of ten years with the current Float Home lease for 30 years. At each lot, the lessee owns only the improvements as personal property (i.e. any house or other approved structure). The lessee has a leasehold interest in the Park’s property (i.e. the land or water and infrastructure) and pays an annual rental fee plus itemized service fees for the privilege of using Park property. The lessee has no ownership interest in the land or water that the lessee’s personal property is located on.

The annual rental fee is currently 5% of the fair market value (FMV) plus any annual adjustments based upon the CPI. Following is a brief history of how the Department settled on this fee. In response to the Ninth Circuit Court’s decision in favor of the “Park” and the need to ensure it was being managed as such the Department began reviewing lease terms including fees in 1996 for implementation in 2000 and the new 10-year lease. This was done by a committee that included leaseholders.

The Board approved a policy statement on January 31, 1997, and directed staff to pursue lease fee proposals for final approval. On February 4, 1998, the Department recommended a 5.6% rate of FMV with the leaseholders countering with a 2 to 2.5% rate. The Board approved a 4.5% rate. On October 29, 1998, the Department presented the final lease, an associated appraisal to base lease fees on, and a mutually agreed to appeal process. After leaseholder input on reducing the proposed 4.5% fee, the Board approved the appraisal and report as presented.

In 2000, the leaseholder’s association challenged the decision with Judge Stegner of the Second District Court of the State of Idaho vacating the Board’s decision because it had failed to provide a written decision articulating the rationale for the increase in the annual rent. In July 2001, the Board held a special meeting during which testimony supporting staff’s recommendation was presented and leaseholders provided testimony opposing the increase. The Board considered all of the testimony and then provided a written summary and decision increasing the annual rent to 5% of FMV. This was not appealed.

Staff obtained an appraisal in 2004 as required which was approved by the Board. In 2008, the Department contracted out an appraisal as required every five years in the lease and in preparation of issuing a new 10-year lease beginning in 2010. After discussing the appraisal with leaseholders, the appraiser, and internal staff, staff presented the appraisal to the Board requesting a 20% reduction in the values due to the recent economic downfall. The Board tabled the final decision directing staff to meet with the leaseholders and discuss further their concerns then return to the July 2009 meeting with a recommendation.

Staff met with the leaseholders and then provided an amended recommendation to include reducing the 5% rate down to 3.75% through December 31, 2019. The Board then directed the appraisal to be assessed by mutually agreed upon assessors to determine the value correction not to exceed 30%. The Board implemented both of these to address the current economic downturn. The Board then approved a 25% reduction of the appraised market value as determined by the agreed upon appraisers at its November 2009 meeting.

In November 2010, the Board approved an annual lease fee for the Trail of the Coeur d'Alenes of 8% of FMV to ensure a reasonable rate of return was received for all encroachments as based upon a summary of similar rates. Staff conducted the five-year Hayburn lot appraisal in 2014. Staff presented this and a new Float Home Lease that facilitated a 25-year term allowing them to pursue a Department of Environmental Quality loan to connect to the park's wastewater system to the Board. As a part of the discussion, staff requested that the lease indicated that in 2020 the lease rate could be increased back to 5% as previously approved. The leaseholders wanted it to remain at the 3.75%. The Board approved the appraisal, and the lease as presented allowing the fee rate to return to 5% in 2020.

Staff presented the 2019 Heyburn appraisal and lease fees applicable to the 2020 10-year lease to the Board in May 2019 with leaseholders providing input. Staff presented a final recommendation to the Board in August 2019 requesting approval of the new lease, the appraisal subject to two pending appeals, and reestablishing the lease fee of 5% of market value. After leaseholder input, which has occurred at each Board meeting discussing fees with lessee's input focused on the rate being too high, requesting consideration of all of the various lease restrictions such as time the structure can be occupied, various permit requirements, and the other costs associated with the lease. The Board approved the lease and fees as presented by Staff.

The Park entered into the current Recreational Residence Site leases in 2020, as approved by the Board in 2019, and Float Home leases in 2015, as approved by the Board in 2014. Each lease requires an appraisal every five years to establish the fair-market value (FMV) of the associated lease lot to ensure the Department is generating a reasonable rate of return based upon FMV, as required in *IDAPA 26.01.21 – Rules Governing Leasing Practices and Procedures for Recreational Residences Within Heyburn State Park*. The intended use of the appraisal is to establish a FMV of each lot as if it were vacant and unimproved but with legal and physical access, in order for the Department to use the FMV of each lot as the basis for determining annual rent, which, by agreement in the lease, is fixed as a percentage of the appraised FMV.

Between and after each appraisal and the resulting rental fee adjustment, the Department has been adjusting the annual rental fee based on the Consumer Price Index (CPI), as expressly allowed in the lease. The Department included this process into the lease so that adjustments to the area's current economic status were made so that as each five-year appraisal is completed the base rate better reflects an increase or decrease in value. The lessees have experienced an increase in their lease rates most years due to this but some years it has decreased.

Regarding the five-year appraisal, the leases state the following:

Recreational Residence Site Lease, Section 4. Lease Payment, b. Mid-Term Base Rate Adjustment. All Recreational Residence Sites shall be reappraised at the middle of the lease term to establish fair market

value as of January 1, 2025, and the base rate will be adjusted to reflect the fair market value established by the re-appraisal. The market value shall be determined as if the Recreational Residence Site were being offered for sale at fee simple for purposes of residential usage, with no adjustment for the restrictions on use and occupation set forth in this Lease.

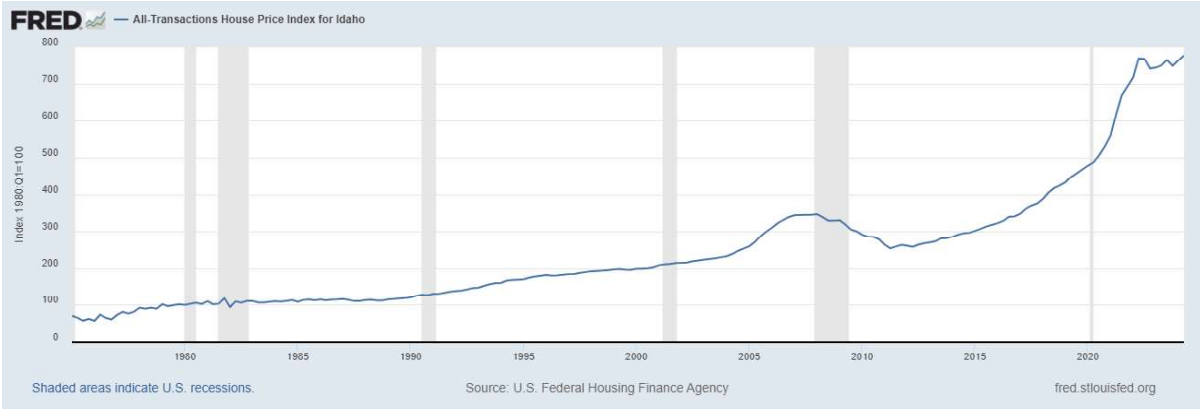
Standard Float Home Lease, Section 4. Payment, 4.6 Five Year Appraisal. On or before July 1, 2019, and every five years thereafter, the Lessor shall cause the market value of the Moorage Site to be determined by an Idaho-certified general appraiser. The market value shall be determined as if the Moorage Site were being offered for sale at fee simple value.

To meet the five-year appraisal requirement, the Department contracted with Valbridge Property Advisors on April 1, 2024. Valbridge’s certified appraisers are familiar with the park and the intention of the appraisal because they have conducted the last two appraisal reports. Valbridge is also the successor of the company that completed several earlier appraisals of the Park’s recreational residence and float home lots. For reasons out of the Department’s control, Valbridge did not complete the appraisal report until September 3, 2024.

As described in the appraisal report, Valbridge determined the market value of each lot as if it were an unimproved parcel being offered for sale in fee simple. No adjustments were made for the existence of any lessee’s personal property or for any use restrictions that lessees agree to honor as set forth in the lease. Valbridge did identify certain site-specific factors and adjusted each lot’s valuation in relation to the following circumstances: primary or secondary lot (i.e. proximity to the Lake), topography (e.g. parking or terrain restrictions), lot size, view, and adjacent land use.

As summarized in the attached Appraisal/Payment Comparison 2003-2025 reports, the appraised values have increased – approximately doubled – in value from the last appraisal conducted in 2019. The present appraised values will result in an average annual rental fee amount increase of about 74% over the 2024 rental fee.¹

The increase in the Park’s Lake front property values is reflective of what is being experienced across Idaho, in particular north Idaho with high demand for limited lake front properties. The following graph reflects about 50 years of housing prices in Idaho:



¹ An error occurred in the 2024 calculations resulting in only a 1.74% CPI increase instead of the actual 3.2% increase that should have been invoiced to lessees. Rental fee payments should have been an average of 1.45% higher or approximately \$42 more, on average.

LEASE TERMS REGARDING A LESSEE'S OPTION TO CHALLENGE THE APPRAISAL:

A lessee has the ability to appeal the appraised value of their leased lot. However, the lessee must first bring to the Department's attention any factual or calculation errors and supporting information. Factual errors may relate to the site-specific factors identified, above, and in the appraisal report. Calculation errors would require proving mathematical computation errors. The leases expressly govern a lessee's option to appeal the appraisal, as follows:

Appeal Rights with Respect to Appraisal. If, after correction of any factual or calculation errors in the appraisal report, the Lessee disagrees with the appraised value, Lessee may obtain an independent appraisal of Lessee's Moorage Site from an Idaho-certified general appraiser. Lessee shall be responsible for paying the costs of such appraisal. The appraiser shall prepare the appraisal using the same Scope of Work and Appraisal Instructions provided to the first appraiser by IDPR. If the difference in value between the two appraisals is 10% or less, the difference shall be split, and that value will be the final appraised value for the purpose of calculating rent. If the difference between the two appraised values is greater than 10%, then the two appraisals will be referred to a third appraiser for review under Standard 3 of the Uniform Standards of Professional Appraisal Practice. The third appraiser shall be requested to reconcile the two values using the data and analysis in the first two appraisals. The value determined by the third appraiser shall be final and cannot be appealed to, or reviewed by, the Park and Recreation Board. The third appraiser shall be selected by Lessor, and the cost of the third appraiser shall be split between Lessor and Lessee, with Lessee required to deposit Lessee's share of the cost with the Lessor prior to engaging the third appraiser.

The Recreational Residence Site Lease does not establish deadlines for when errors must be identified and resolved, or when a lessee's independent appraisal needs to be completed.

However, as quoted above, the Standard Float Home Lease sets a "July 1, 2019, and every five years thereafter" deadline for the Department to have an appraised market value for each float home lot. When the Department contracted with Valbridge earlier this year, the July 1, 2024, deadline was required by the Department and agreed to by Valbridge. Unfortunately, the appraisal report was not completed until September 3, 2024. The Department began its evaluation of the appraisal report, and then circulated it to lessees, as soon as it could following receipt on September 3rd.

The Park has been experiencing many changes with the influx of much-needed funds to repair and upgrade facilities and utilities, including the replacement of both marinas. The marina replacement projects will result in the removal of all boat garages by the end of those contracts, on December 31, 2024. The required removal of boat garages is impacting many recreational residence lessees and some float home lessees, who were also boat garage owners and moorage lessees.

Noting the late appraisal completion and keeping other impacts on some lessees in mind, the Department would like to wait a year to implement the market value adjustment to the annual rental fee. The Department would then calculate the 2025 rental fee the unadjusted CPI for the 12 months preceding the preparation of the annual billing. The Department would then calculate the 2026 lease payment utilizing 5% of the appraised lot value (incorporating any approved appeals) adjusted with the unadjusted CPI for the 12 months preceding the preparation of the 2026 annual billing. The Department would also establish specific timelines associated with the appeal process to ensure timely assessments and adjustments. Every lease will need to be amended to facilitate this proposed change.

STAFF RECOMMENDATIONS:

Staff recommends the Board approve the following:

Approval of the Valbridge, Appraisal Report, Heyburn State Park and the market values stated therein for the recreational residence and float home lease lots, dated September 3, 2024.

Postponement of the Mid-Term Base Rate Adjustment based on the appraisal, which is to be implemented on January 1, 2025, until January 1, 2026.

Calculation of the January 1, 2025, lease rate by applying the unadjusted CPI for the 12 months preceding the preparation of the annual 2025 billing.

Calculation of the January 1, 2026, lease rate at 5% of the September 3, 2024, appraised value, incorporating in any approved appeals, then adjusting this amount by the unadjusted CPI for the 12 months preceding the preparation of the annual 2026 billing.

Requirement of lessees to present any factual or calculation errors to the Department by December 30, 2024, for Department review and consideration with approved appeals applied to the respective site appraisal.

Requirement of lessees that disagree with the overall appraisal to provide an independent appraisal of their site as outlined in the lease's Appeal Rights with Respect to Mid-Term Appraisal must be received by March 30, 2025. If a third appraiser review is required as outlined in the appeal process, this must be completed by June 30, 2025. Approved appeal adjustments will then be applied to the respective site appraisal.

Approval of the development of an Amendment to the Recreational Residence Site Lease and the Standard Float Home Lease that includes all the aforementioned items.