

**OFFICE OF THE BOARD OF COUNTY COMMISSIONERS  
OF BLAINE COUNTY  
REGULAR MEETING OF THE AUGUST 2015 SESSION**

**Fifth Day**

**Tuesday, August 25, 2015**

Pursuant to Statutory Provisions, the Board of Blaine County Commissioners (BCC) met this day at 9:00 a.m. Present were Chairman Jacob Greenberg, Vice-Chair Angenie McCleary, Commissioner Lawrence Schoen; County Administrator Derek Voss; County Clerk JoLynn Drage; Human Resources Generalist Henry Brown; Chief Deputy Assessor Martha Heuston; and Recording Secretary Sunny Grant.

Chairman Greenberg called the meeting to order at 9:01 a.m.

**PUBLIC COMMENT - NONE**

**AMEND AGENDA**

**McCleary moved, seconded by Greenberg, to add an Executive Session at the end of today's agenda, pursuant to 74-2406 1(b), for evaluation of a public employee. Motion carried unanimously.**

**COUNTY DEPARTMENT REPORTS, Discussion and Consideration**

**Claims – Schar Boyd**

- Deputy Auditor Schar Boyd presented the claims.

**Schoen moved, seconded by McCleary, to approve claims dated August 19, 2015, as presented by staff. Motion carried unanimously.**

**Clerk's Report - JoLynn Drage**

- Attended Annual Idaho Association of County Recorders and Clerks conference last week. Much of the discussion centered around changes in the statewide court system, which is changing its entire computer system.
- All presidential primary election(s) will take place in March, for any party that chooses to have a primary. The deadline to make that decision is November 24.

**County Administrator - Derek Voss**

- Commissioners Schoen and McCleary will liaison with County Operations Administrative Assistant Andrea Walton and consultants to formulate a plan for Recycling outreach. Schoen will work with the ERC.
- Blaine County's tipping fee contributes \$5.00 per ton to the Recycling Center. The Southern Idaho Solid Waste District FY2016 cost to Blaine County will exceed Blaine County revenue by \$1.65/ton. This imbalance must be addressed.
- Voss thanked Commissioners for taking on additional responsibilities in covering former Operations departments and for supporting an HR Generalist.

**SALE / DISPOSAL OF COUNTY PROPERTY - Former Blaine Manor Property**

Also present: Blaine County Chief Deputy Prosecuting Attorney Tim Graves; and Blaine County Buildings and Grounds Manager Patrick Boyle.

The BCC supports an auction of the former Blaine Manor property. Voss concurred that an online auction seemed to be an efficient way to maximize return. Schoen told the BCC that a lot of real estate transactions are now done through online auctions and spoke with an owner of an auction company. The auction company would come to Blaine County, research the property to be sold, and then market it through media, direct mail and online. The auction fee is paid by the buyer at 5% and the seller at 2½%, plus the seller pays marketing expense. An online auction would be for a designated period of time, but can be extended in five-minute increments if higher bids continue to come in during the final five-minute period.

County Attorney Tim Graves said notice of the auction would have to specify precisely how the auction would be conducted, the minimum price, when the property would be available for inspection, and additional information on how an online auction is held, including that time extensions may happen as long as higher bids come in.

- The BCC has to set their minimum price. The auction company will confirm how they will work with a minimum price, and what happens if the highest bid doesn't meet the minimum price. The BCC discussed a minimum bid in the range of \$2.3 to \$2.6 million.
- What if the auction doesn't sell the property at the minimum bid?
- Marketing expense is estimated at approximately \$10,000.
- The auction house suggested the County get an estimate of the cost of removing asbestos and lead paint, if any.

**CONTRACTS, GRANTS AND AGREEMENTS, Discussion and Consideration**

**• Mountain Rides Joint Powers Agreement**

Also present: Mountain Rides Executive Director Jason Miller.

The BCC discussed language revisions to this agreement between Mountain Rides Transportation Authority and Blaine County, and the cities of Sun Valley, Ketchum, Hailey and Bellevue. Carey has not appointed a representative in eight years, so the Mountain Rides attorney suggested the City of Carey be eliminated from the Board of Directors and signature page. The BCC discussed some potential minor revisions. Jason Miller will get an updated version of the JPA to the BCC for next week’s agenda.

**• Jackson Group Peterbilt Credit Application**

**Schoen moved, seconded by McCleary, to authorize staff to apply to Jackson Group Peterbilt for a credit account. Motion carried unanimously.**

- Sentinel Fire and Security Installation and System Monitoring for Elections Office Panic Button**
- Sentinel Fire and Security Installation and System Monitoring for Prosecuting Attorney's Office Panic Button**

Also present: Blaine County Operations Administrative Assistant Andrea Walton.

Voss suggested the BCC table the two-year agreement for one week.

**• Blaine County Security Agreement with Mary Ann Todd ..... Record #629058**

Also present: Blaine County Land Use Administrator Tom Bergin.

This is a security agreement to ensure revegetation over the next five years on a property in the Mountain Overlay.

**Schoen moved, seconded by McCleary, to approve the Blaine County Security Agreement with Mary Ann Todd for a property on Glendale Road. Motion carried unanimously**

**CONSENT CALENDAR**

**• Resolution 2015-31 Capital Improvement Budget Adjustment ..... Record #629059**

- Beverage License renewals** for Lago Azul Mexican Restaurant and Nourish Me.
- Junior College Residency forms:** College of Western Idaho, Fall 2015 – Spring 2016: Alberto Gomez. College of Southern Idaho, Fall 2015: Tori Alvarez. College of Southern Idaho, Fall 2015 - Spring 2016: Wanda Allred; Ted Angle; Alondra Arevalo; Elizabeth Brown; Courtney Bruner; Brooke Degn; Carolina Driever; Trinita Dye; Lisl Dye; Grace Eakin; Izaac Easterday; Audrey Elias; Elviz Fernandez; Breanna Gillard; Agusta Griffin; Stephanie Guzman; Lorena Horne; McKenley Howard; Lisa Hughes; Keah Jones; Victoria Linderman; Gabriela Lopez; Jason Lyman; Luanne Madeville; Jesus Morales; BettyAnn Mummert; Antonio Munoz; Jaqueline Murillo; Angelica Ortega; Jose Ortiz; Maria Paredes; Jeanene Parker; Delicia Reily; Suzanne Rowland; Frank Rowland; Yuliza Ruiz; Gabriela Saltos; Jasmine Schofield; Brittany Shipley; Alejandra Silva; Anthony Taylor; Yesenia Terrazas; Shauana Unser; Nancy Vandiver; Ana Villanueva; Memphis Virnig; William Waller; Matthew Webb; Sherrie Winterholler; Victoria Yee; B Joy Yelda; Wendy Young; Ruth C DuJour; Anthonya Magdalena Lizarraga; and Brent Heuett.

**McCleary moved, seconded by Schoen, to approve Consent Calendar dated August 2, 2015. Motion carried unanimously.**

**BOARD of COUNTY COMMISSIONERS REPORTS, Discussion and Consideration**

**Wood River Wolf Project Update – Schoen**

- The Wood River Wolf Project had its first meeting this year, facilitated by Brian Bean of Lava Lake Institute and attended by representatives of many wildlife-oriented government and non-government agencies, and a newly-hired Wolf Project field manager. Discussion revolved around reactivating and financing the project, protocols for rancher engagement, and presentation of a scientific peer review paper quantifying results on the Wood River Wolf project since 2008. Idaho Fish and Game and Wildlife Services will not actively promote non-lethal deterrence, but may present it as an option to herders.
- The Wolf Project has submitted a claim for reimbursement from “Tester” funds held by the state for entities practicing non-lethal deterrence.

**Blaine County Housing Authority Regular Meeting – Schoen**

- The BCHA Board, staff and neighbors of Agave Place have agreed on language for a Request for Qualifications for a developer for the Valley Club West Nine PUD two parcels.
- The BCHA may work with the City of Stanley to help them develop workforce housing on land transferred from the Forest Service under the SNRA+ bill.

**Veterans Tribute Project Update – Schoen**

- Blaine County Historical Museum president Bob MacLeod attended a Hailey Arts Council meeting to request the Arts Council’s involvement with the Veterans Tribute project. The Arts Council will only do Hailey arts projects, but offered expertise and assistance.
- Schoen and MacLeod will draft a letter to potential fund-raisers.

## **NACo Western Interstate Region (WIR) Conference Call – Schoen**

Participants in the well-attended NACo WIR conference call discussed the 40% excise tax on high-value health insurance (which doesn't affect Blaine County); surface transportation reauthorization in Congress; and companion bills in the House and Senate on Payment in Lieu of Taxes (PILT), Secure Rural School (SRS) and Land and Water Conservation fund.

## **COUNTY ROADS STANDARDS WORK PLAN, Discussion and Consideration**

Also present: Blaine County Road and Bridge Manager Tom Duffy; County Land Use Administrator Tom Bergin; County Engineer Jeff Loomis; County Operations Administrative Assistant Andrea Walton; and *Idaho Mountain Express* reporter Amy Busek.

The County Engineer and County Road and Bridge Manager Tom Duffy suggest some amendments to road-related issues in the Blaine County Code. County Land Use Administrator Tom Bergin told the BCC that amendments to County Code can be initiated by the BCC, P&Z or an individual applicant. Road standards are addressed in Blaine County Code Title 6 Road Standards; and road-related issues are in Title 9 Zoning Code and Title 10 Subdivision Code.

The Comprehensive Plan's newly-adopted Transportation section relates to a need for modification and reevaluation of various sections of County road standards. At the very least, references between Title 10 and 6 need to be updated. Changes to County Code fall under the Local Land Use Planning Act, and require a recommendation from the Planning & Zoning Commission. Currently, road standards are in appendices and are not included in the County Code. County Engineer Loomis said updating road standards was complicated because of existing cross-references and appendices; and they have been waiting for a completed Right-of-Way Management Plan.

Loomis has updated Appendices B and C. He would like to take Appendix A, which includes the County's road construction requirements and materials specifications, out of the Code and consider it Administrative Rules, as the State does; and remove speed limits from the Code so the Code doesn't have to be modified to change a speed limit.

Functional Classification was formerly part of the Comprehensive Plan, but is now only referenced in the Comp Plan and should be in Title 6 of the Code. Bergin said the Code was adopted in 1994, and a few things like road mix size should be updated. Voss noted that County Attorney Tim Graves was on the Road Standards team and found it odd that something like the size of gravel was codified in the County Code. The team's main concern is to have everything interrelated and complimentary. Voss asked the BCC if revising Road Standards was a priority project for County staff.

Greenberg said the BCC needs to discuss policies for road design and budget, but not micromanage the Road and Bridge Department. McCleary said it was time to review road standards that were last set in 1994, and volunteered to be BCC liaison to the Road Standards team. Schoen said road standards definitely needed updating. He said Blaine County does not have anything like the Idaho Administrative Procedures Act (IDAPA), and this should be considered before deciding where road standards should be located. Voss concurred with the BCC. The BCC said they hear from residents any time their neighborhood road and road design is changed.

## **EXECUTIVE SESSION – §74-206 1(d) INDIGENT** - Consideration of records that are exempt from disclosure as provided in Chapter 3, Title 9, Idaho Code

Present were: Blaine County Indigent Services Director Brooke Baird.

**McCleary moved, seconded by Schoen, to convene in Executive Session, pursuant to Idaho Code 74-206 1(d) to consider indigent medical applications. Schoen (aye), McCleary (aye); and Greenberg (aye). Motion carried unanimously.**

## **OPEN SESSION RESUMED**

**McCleary moved, seconded by Schoen, to deny Medical Indigent Application for Assistance Case #2015-52, based on staff recommendation. Motion carried unanimously.**

## **BREAK**

## **LAND USE and BUILDING SERVICES HEARINGS**

- **Reconsideration of Conditions, Little Wood Headwaters Ranch:** A public hearing and consideration of removing condition number 7 from the previously approved but not finalized, Mountain Overlay District site alteration permit and Stream Alteration permit applications. Condition number 7 states; The access and easement issues as stated in the Idaho Dept. of Lands comments (B3) shall be resolved prior to the Board signing the Findings of Fact, Conclusions of Law and Decision and shall be demonstrated in letter form from IDL. The subject 560 acre parcel is located approximately 1-2 miles north of the intersection of Muldoon Canyon Ranch R. and High Five Rd. in S3, T2N, R20E & S34, T3N, R20E.

Also present: Blaine County Chief Deputy Prosecuting Attorney Tim Graves; Blaine County Land Use Administrator Tom Bergin; applicant Little Wood Headwaters Ranch representative James Hodge; Idaho Department of Lands Right-of-Way Agent Ryan Lay, and *Idaho Mountain Express* reporter Amy Busek.

Bergin read notice, and showed the BCC a map of the subject property. Site alteration work was done in the MOD (without a permit) that was visible from a County reference road and could not be approved administratively, so the applicant submitted application for a Site Alteration Permit and Stream Alteration Permit in 2011. Findings, including Condition #7 referring to resolving a conflict with the Idaho Department of Lands, were done for the two applications in late 2011, but never signed. The current application is reconsideration of the conditions of Findings for the Site Alteration Permit and Stream Alteration Permit applications.

The original application was for work to be done on private land. The decision didn't include authorization to do work on state land.

New materials: Two letters from Idaho Department of Lands.

Blaine County Chief Deputy Prosecuting Attorney Tim Graves reminded the BCC that a former BCC had made a decision and voted on this application. This is not a zoning or land use application; but a request for the BCC to consider reconsideration of the 2011 approval.

**APPLICANT:**

- James Hodge asked the BCC to reconsider the conditions of approval. He said the applicant did some site work without getting the proper permit, but has since demonstrated that they complied with all applicable regulations. The main issue seemed to be Condition #7, requiring the Little Wood Headwaters Ranch provide an easement over a fairly large part of their property to provide access to Idaho Department of Lands (IDL) land, in exchange for a fairly small easement over IDL land. The Ranch and IDL have yet to agree on this easement. Hodge suggested the Ranch's trespass over IDL land is of no concern to the County; and the condition of approval made negotiation with IDL difficult. Hodge said IDL apparently has a problem with the Ranch's trespass over their property, and suggested IDL put up a NO TRESPASSING sign, which the Ranch would honor. Hodge said the road has always been there, but the Ranch would revegetate the improved IDL land if requested to do so.

Schoen said the condition stated, "The access and easement issues as stated in the IDL comment shall be resolved prior to the BCC signed Findings ..."; and that requirements and needs of state agencies is typically a condition of approval. Hodge said he thought they had complied with all applicable laws, rules and regulations. Schoen added that IDL has access over other federal and state land.

Bergin said the State Plans and Needs, formerly Section 12, was modified and is now Section 13 in the Code.

Blaine County Chief Deputy Prosecuting Attorney Tim Graves said he hadn't had time to research this Request for Reconsideration, but that Idaho Code requires state organizations needs must be considered in zoning or subdivision applications. He will research if this applies when the state agency is an affected party or only when the state agency is an applicant. The BCC's decision four years ago could have been appealed, but it's been several years since the decision and he would need to see if an appeal had ever been filed.

**PUBLIC COMMENT:**

- Idaho Department of Lands Right-of-Way Agent Ryan Lay sent a letter to the BCC. He concurred with Mr. Hodge that there has been a lack of communication. IDL looked at different options for land and easement exchanges, but found nothing that seemed fair to IDL. IDL acquired the land in 1916, and the roads were in existence then. Private ranches in the area all use the roads and have access to the roads, but IDL currently has no written legal access. IDL would like to have full legal access to their property over historic roads.

Schoen said he didn't like the County involved in this type of situation, and asked if this was an RS-2477 issue. Greenberg asked what alternatives the State has. He wasn't sure the BC had authority to make a decision on property rights.

Graves said there is a separate administrative process by which the County can declare a right-of-way to be a public right-of-way, based on RS-2477, Idaho Code, or some other grant, which would be a separate Road and Bridge hearing. The property south of this one was declared a public right-of-way during the subdivision process, but the applicant disputed that the road wasn't a public right-of-way and the BCC ignored the issue since it wasn't pertinent to the subdivision process. Graves said this issue is still open, and evidence to validate the right-of-way, if such evidence exists, should be presented to the County. Graves said these issues could be considered by the BCC, but as a separate issue.

Schoen said the appeal process is usually clearly defined in all sections of Code where the County has permit approval authority, and questioned if it was appropriate to consider this four years after the 2011 decision. Graves said the deadline for an appeal was over; but he would check to see about a reconsideration.

McCleary said the lack of resolution between the two parties may be due to lack of engagement.

Hodge said they had new facts since the 2011 decision. They accepted the decision at the time because they felt the easement could be easily resolved, but IDL wants an unconditional easement across their property. Once the original decision is signed, there should be time to appeal.

Hodge said there were two interwoven problems, one of which was legitimately a County issue; and the other is trying to find common ground with IDL. Schoen said the condition was put in the Findings for a reason. He too asked the Little Wood Ranch and IDL to work together toward resolution.

This request for reconsideration will be put on a future agenda.

**LAND USE and BUILDING SERVICES, Discussion and Consideration**

• **Reappointment of Planning and Zoning Commissioner Michael O'Farrell**

**Schoen moved, seconded by Greenberg, to reappoint Michael O'Farrell to the Blaine County Planning and Zoning Commission for a three-year term.** In discussion, the BCC thanked O'Farrell for his years of service. **Motion carried unanimously.**

**Heuring Appeal Application Refund Request**

Also present: Blaine County Land Use Administrator Tom Bergin; County Senior Planner Kathy Grotto; County Code Compliance Specialist Diane Shay; and County Chief Deputy Assessor Martha Heuston.

The application for a variance was submitted in early 2015. The hearing examiner conducted three hearings and denied the application. Heuring filed a Notice of Appeal within the deadline, but, after meeting with staff to discuss the process, decided to withdraw his application.

**Schoen moved, seconded by McCleary, to refund a portion of the \$750 of the Heuring Appeal application fee, with \$75 non-refundable processing fee retained by the County, pursuant to Blaine County Resolution 2014-17. Motion carried unanimously.**

**Findings of Fact: Little Makawao Plat Amendment**

**McCleary moved, seconded by Schoen, to approve Findings of Fact, Conclusions of Law and Decision regarding the application of Kurt Patterson for a Plat Amendment to enlarge the building envelope on Lot 1A Little Makawao Subdivision. Motion carried unanimously.**

**SALE / DISPOSAL OF COUNTY-OWNED PARCELS within Valley Club West Nine Planned Unit Development, Discussion and Consideration**

Greenberg said he discussed this with Blaine County Housing Authority Executive Director David Patrie. The BCHA Request for Qualifications was amended to reflect concerns of surrounding landowners and approved by the BCHA Board. Graves will prepare legal notice and resolution to transfer the property for the BCC to consider at the September 8 BCC meeting.

**REQUEST TO PLACE SPECIAL ASSESSMENT ON TAX ROLL IC 63-902(10)**

Also present: Blaine County Treasurer John David Davidson; County Chief Deputy Prosecuting Attorney Tim Graves; and Sun Valley City Attorney Adam King.

The City of Sun Valley condemned a five-acre estate property that has been abandoned for several years and was considered a hazard. Sun Valley incurred \$18,575.90 in expenses to make the property safe. Idaho Code §50-334 allows cities to declare what shall be deemed a nuisance, and can prevent or remove the nuisance at the expense of the responsible party. I.C. §50-1008 states that the City can levy a special assessment on the land or premises to defray the cost or reimburse the City for expenses incurred. If the special assessment is not paid to the City within 30 days, it shall be declared delinquent and to be certified to the tax collector of the County not later than the first day of August, so it can be placed on the tax roll and collected in the same manner and subject to the same penalties as other city taxes.

Idaho Code §63-902(10) states that no other charge other than property taxes shall be included on a tax note unless the entity placing such charge has received approval from the Board of County Commissioners to place such charge on a tax notice, and has authority to place a lien on a property, has authority to certify such charge to the auditor, and is required to collect such charge in the same manner provided by law for the collection of real and personal property taxes. The City of Sun Valley attempted to get reimbursement from the property owners, and has met all requirements by the August 1<sup>st</sup> deadline, but needs approval from the Board of County Commissioners.

King said the property has already been to the Idaho Supreme Court and back. Sun Valley is prepared to pay the County's 1% administration fee. Once the tax assessment is in place, King will release the liens.

**Schoen moved, seconded by McCleary, based upon a Finding by the BCC that pre-conditions have been met, and under authority vested in the County by I.C. Title 63-902(10) Blaine County, Idaho, to authorize a special property tax charge to be levied by the County Treasurer on property known as 104 Grey Eagle, parcel number RPS0432000015A. Motion carried unanimously.**

**BLAINE COUNTY RESOLUTION 2015-33 Authorizing Treasurer Collection of Assessments for South Valley Groundwater District, Discussion and Consideration ..... Record #629060**

Also present: South Valley Ground Water District Director Jerry Bashaw; Pepin Corso Harris; *Idaho Mountain Express* reporter Amy Busek.

The South Valley Ground Water District passed and is submitting a resolution requesting the Blaine County Treasurer bill and collect assessments from members of the South Valley Ground Water District within district boundaries, as approved by the BCC. Idaho Code Title 42-5241(2) outlines a process whereby the BCC can, by resolution, authorize the County Treasurer to collect these assessments on behalf of the ground water district. Blaine County Resolution 2015-33 sets forth recitals, conditions and stipulates the County is entitled to collect an administrative fee for the Blaine County Treasurer to bill and collect the district's maintenance and assessment fees in its regular tax billing.

**Schoen moved, seconded by McCleary, to approve Blaine County Resolution 2015-33 authorizing the Blaine County Treasurer to collect operation and maintenance assessments on behalf of newly-formed South Valley Ground Water District and assess a fee. Motion carried unanimously.**

**BOARD REPORTS, Discussion and Consideration**

**East Fork Road – McCleary**

A one-mile section of East Fork Road (from the bridge just east of the Highway 75 traffic light to where the road narrows) was recently chipsealed and not restriped. Several citizens have asked the County to reconsider restriping the road as a traffic calming measure and for bicycle-pedestrian use. 11ft travel lanes would provide 3ft shoulders on both sides of the road. Neighbors claim people are driving faster, and have asked if enforcement can be increased. Striping the road would cost about \$7,000, which is not in budget but can be done with contingency funding. Striping will be put on a future agenda as part of an overall Road and Bridge policy.

Schoen asked why a relatively new road built to standard was chipsealed.

**REQUEST FOR WATER DISTRICT #45 FINANCIAL RECORDS, I.C. 43-325, Discussion and Consideration**

Also present: Blaine County Chief Deputy Prosecuting Attorney Tim Graves.

Wood River Valley Irrigation District #45 was subject to a Petition to Partition last year, and subsequent lawsuit regarding the BCC's decision to partition District #45 into separate irrigation districts. The Triangle Irrigation District is requesting the BCC secure certain District #45 documents on their behalf.

Idaho Code § 43-325 authorizes the BCC to demand and require an irrigation district to provide access to all books, records and vouchers of the irrigation district. Graves said Idaho Code requires the BCC shall be granted access to review and inspect financial documents; but he does not believe I.C. gives the BCC authority to demand and transmit copies of the financial documents to a third party.

Graves believes an irrigation district is subject to Idaho's Public Records law, which subjects all "districts" to its purview, and that the Triangle Irrigation District has the right to request documents from District #45. District #45 would have to respond to the public records request; and if they deny the request, the Triangle Irrigation District could appeal that determination to District Court. Graves recommended the BCC deny the request for copies, but could honor the request in seeking access to review the records. Graves would advise the Triangle Irrigation District to seek the records they want under the Public Records law.

**PUBLIC COMMENT:**

- Pepin Corso Harris said they have requested these records four different times since last October. They have had trouble getting the original documents, but are finally getting some spreadsheets using data from the original documents.

Graves said there are consequences to a public official withholding public records. Schoen noted that the general public and members of both districts have an interest in the outcome; and it's in the best interests of all parties to establish a cooperative relationship.

The BCC directed Graves to draft a response to the Triangle District.

**EXECUTIVE SESSION – §74-206 1(b) Personnel**

**McCleary moved, seconded by Schoen, to go into Executive Session, pursuant to Idaho Code 74-206 1(b) to consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against a public officer, employee, staff member or individual agent. Schoen (aye), McCleary (aye), and Greenberg (aye). Motion carried unanimously.**

**ADJOURN**

**At the hour of 4:45 p.m., with no more business before them, the County Commissioners adjourned.**

Attest: \_\_\_\_\_ Approved \_\_\_\_\_  
JoLynn Drage County Clerk Jacob Greenberg Chairman