

**OFFICE OF THE BOARD OF COUNTY COMMISSIONERS  
OF BLAINE COUNTY  
REGULAR MEETING OF THE AUGUST 2013 SESSION**

**First Day**

**Tuesday, August 6, 2013**

Pursuant to Statutory Provisions, the Board of Blaine County Commissioners (BCC) met this day at 9:00 a.m. Present were Chairman Lawrence Schoen, Vice-Chairman Angenie McCleary, Commissioner Jacob Greenberg; County Clerk JoLynn Drage; Operations Director Char Nelson; and Recording Secretary Sunny Grant.

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

**PUBLIC COMMENT**

Also present: Michele Johnson, Tina Lewis, Karen Osborne, Diane Shay, Doug Wynn.

- Blaine County employee Michele Johnson, speaking as a member of the public, said she didn't have a problem with the BCC's decision to give themselves a \$20,400 annual pay raise. She asked if the BCC had put as much thought and reasoning into giving her a 9.3% pay cut by reducing the County's share of coverage for dependent health insurance. Johnson said families were the core of any community, and families would be most affected by the BCC's decision. She asked the BCC to explain how this decision met the BCC's strategic plan to attract and retain employees.

Chairman Schoen said he would like to respond to Johnson's concern, but considered this a personnel matter concerning her own compensation, not a comment from the public. The BCC has the month of August in which to consider the tentative budget before finalizing it the first of September. McCleary said the employees present were on their own time and she felt they had a right to comment as members of the public. Greenberg felt Johnson's public comment addressed the County's policy on health insurance and welcomed the discussion.

J. Larraine Davis wrote a letter to Blaine County Clerk JoLynn Drage saying she'd heard a memo on rattlesnakes and blow snakes crossbreeding was distributed at a Blaine County Road and Bridge meeting. The Commissioners did not receive a copy of Davis's letter or see the reputed memo. County Operations Director Char Nelson said she was unaware of any such memo or discussion at a Road and Bridge meeting. Drage said she would respond to Davis.

**EXECUTIVE SESSION – §67-2345 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 Manager Brooke Roberson and Indigent Services Assistant Amy Rivkin.

**Greenberg moved, seconded by McCleary, to convene in Executive Session pursuant to Idaho Code 67-2345 1(d) to consider indigent medical applications. Greenberg (aye), McCleary (aye), and Schoen (aye). Motion carried unanimously.**

**OPEN SESSION RESUMED**

**McCleary moved, seconded by Greenberg, to approve Application for Assistance Case #2013-38, based on staff recommendation, with a repayment of \$25.00 per month, to be evaluated in 12 months. Motion carried unanimously.**

**McCleary moved, seconded by Greenberg, to approve Application for Assistance Case #2013-65, based on staff recommendation. Motion carried unanimously.**

**COUNTY DEPARTMENT REPORTS, DISCUSSION and CONSIDERATION**

**Operations Director – Char Nelson**

- Received a letter from Barbara Browning regarding a stream alteration permit. Chairman Schoen said it is not appropriate for the BCC to respond to a letter that addresses an active Land Use application.
- Road and Bridge is reviewing their \$25 permit application fee, which doesn't cover the cost of reviewing or processing a permit application. Road and Bridge may propose increasing fees in the future.
- Road and Bridge staff applied for a Local Highway Technical Assistance Council (LHTAC) Safety Audit Grant for \$38,000 last February. LHTAC no longer does audits themselves for \$10,000; the County Engineer has a consultant who can do the safety audit. The grant does not cover a speed study, but Staff will do a speed study and present findings along with the Safety Audit.

**McCleary moved, seconded by Greenberg, to amend the grant request for a local federal aid project request for LHTAC safety audit to no longer include a speed study in the application and to ensure that it meets all grant submittal requirements. Motion carried unanimously.**

- In response to an earlier discussion of high levels of radon in the Judicial Building basement, the BCC authorized the relocation of an office in the basement that is occasionally used by a state probation/parole officer.

- Road and Bridge is removing old asphalt from the Little Wood River Reservoir road.
- Road and Bridge is working with Ketchum Street Department on chip sealing downtown streets in Ketchum this week.

### **CONSENT CALENDAR**

- **Beverage license renewals for Runway Gift Café, Vintage Restaurant, Albertsons #130, Miramar Mexican Restaurant, CKs, Velocio, Bluebird Day Café, Video West, Thai Cuisine, A Taste of Thai – Ketchum and Hailey, Apples Bar & Grill, Bigwood Grill, Hailey Hotel Bar and Grill, and Rickshaw.**

**McCleary moved, seconded by Greenberg, to approve the Consent Calendar for August 6, 2013. Motion carried unanimously.**

### **BOARD REPORTS, DISCUSSION and CONSIDERATION**

**Idaho Association of Counties, District IV Meeting – McCleary, Greenberg**

Also present: *Idaho Mountain Express* reporter Greg Moore.

Meeting attendees toured Twin Falls County's spacious new facility (formerly the Magic Valley Regional Medical Center). Main topics of discussion:

- Medicaid redesign could potentially eliminate 90% of county indigent programs and most of the state Catastrophic Health Care Cost Board (CAT) program.
- How counties would deal with loss of personal property tax.
- Transportation funding and a potential gas tax or other increase may be discussed in this year's Legislature.
- Legislature may again consider changes in the Land Use Planning Act and Public Defender issues.
- There may be some discussion to expand the authority to collect local option tax.
- How Medicaid redesign and the potential option for an employee to purchase health insurance through the Exchange might affect County employees. Some employees may opt to get their own health insurance, which may affect employees who remain on the County's health insurance plan.

### **Amend Today's Agenda**

As a result of IAC discussions on Medicaid expansion and how employee health benefits may change next year, the BCC decided to discuss healthcare benefits at today's meeting.

**McCleary moved, seconded by Greenberg, to amend today's agenda for Tuesday, August 6, 2013, to add an agenda item at 2:30 to discuss the 2014 Blaine County budget, including items of employee benefits and compensation. No decision will be made during this discussion. Motion carried unanimously.**

### **Payment in Lieu of Taxes (PILT) Funding – Schoen**

There is still no word on whether the County will receive PILT funding this year. Congress may not make a decision until next year. PILT discussions prompt discussions of the transfer of federal lands to state ownership.

### **Wildlife Crossing Subcommittee Meeting – McCleary**

The Committee discussed comments on the proposal to reduce the night-time speed limit for two and a half miles on Highway 75 to 45mph. Most comments were supportive of the reduced speed limit, and many wanted the reduction along more of Highway 75, and all 24 hours a day. This proposal covers an area of with high deer/elk/vehicle collisions. The nighttime speed limit change is being proposed because the majority of accidents are occurring at night and the Blaine County Sheriff Gene Ramsey feels it is enforceable. ITD will begin measuring this area of the highway to evaluate if the speed limit reduction is successful.

### **Blaine County Community Bicycle and Pedestrian Master Plan Update – McCleary**

The subcommittee has received funding pledges from Blaine County, the Blaine County Recreation District, the cities of Hailey and Ketchum, and Mountain Rides totaling \$12,000. The City of Sun Valley is willing to contribute in kind. Mountain Rides is drafting a RFP to hire a consultant.

### **Southern Idaho Solid Waste District – Schoen**

The SISWD Board approved their FY2014 final budget.

- Waste volumes are up in Blaine County, which is a good economic indicator.
- The SISWD is switching to a ton-mile haul formula. Haul costs will increase at first and then stabilize as other counties in the district convert to larger trailers.
- The budget includes increases in liability insurance and medical insurance.
- Paragon Consulting reported on their landfill gas capture program for Bannock County's energy-generating facility. The SISWD Board authorized the director to draft a RFP for a study of how to improve efficiency of the landfill gas capture at Milner Butte to fix a problem with the landfill gas capture system before determining the best use for the methane.

### **Proposal to Combine Water Districts 37, 37M, 37A and 37C – Schoen**

There is a proposal to consolidate Water Districts 37, 37M, 37A and 37C. 37 is the Big Wood Basin and

37M is the Little Wood Basin, which are currently operating jointly. 37A and 37C are smaller basins in the Camas Creek drainage. The proposed consolidated district would include surface and ground water rights and abolish the Upper Big Wood River Groundwater Management District, which is in place to measure ground water usage in the Big Wood Basin. The proposal, which is a precursor to conjunctive management, is opposed by Camas County water users and the City of Hailey because groundwater users want their own district or subdistrict. Schoen, speaking as a water user and not County Commissioner, supports consolidation because he feels issues will become apparent earlier in the transition to conjunctive management if people work together.

#### **Groundwater Model Technical Advisory Committee – Schoen**

Schoen, as county representative, attended a meeting of the Groundwater Model Technical Advisory Committee (joint effort of Idaho Department of Water Resources and US Geological Survey) to study and model groundwater flows in the Upper Big Wood River Basin. The purpose of the study is to incorporate ground water flow knowledge into conjunctive management.

### **APPROVAL OF BOARD OF COUNTY COMMISSIONERS MEETING MINUTES**

#### **• June 4, 2013 Regular Meeting**

The BCC reviewed the June 4, 2013 minutes, but questioned the accuracy of one item in the minutes, and did not approve them..

### **AIRPORT PROJECTS UPDATE AND DISCUSSION**

Also present: Friedman Memorial Airport Manager Rick Baird; and *Idaho Mountain Express* reporter Greg Moore.

Friedman Airport Manager Rick Baird said the FMAA would review at tonight's meeting:

- A new terminal configuration that would support north and east aircraft parking, and also improve the visitor's experience in the terminal.
- Approve engineering consultant project design fees for airport improvements scheduled this fall.
- Report from Finance Committee on rental car process.
- Friedman airport staff salaries, including the Manager's salary.
- The Finance Committee will make a presentation on rental car agreements.

### **PUBLIC HEARING –**

#### **PETITION FOR DIVISION OF WOOD RIVER VALLEY IRRIGATION DISTRICT #45**

Also present: Blaine County Chief Deputy Prosecuting Attorney Tim Graves; County Land Use Administrator Tom Bergin; County Clerk JoLynn Drage; Wood River Valley Irrigation District #45 Secretary-Treasurer James White; District #45 petition signers' counsel Dan Nevala; District #45 (non-petition signers) counsel Andy Waldera; Mark Gower; Bette Gower; Jim Super; Sarah Gardner; Grace Eakin; Pepin Corso-Harris; Steve Beavers; Martin Flannes; Brett Stevenson; Jan Super; Raymond G. Goettsch; Gail Kearns; Elizabeth Stevenson; Kevin Lakey; Sharma Thornton; Greg Anderson; John F. Stevenson; Judy Grigsby; Sheila White; David Berman; Lori Sewell; Craig Kaminski; Poppy Englehardt; and Cyndi McCowan.

This petition is prompted by new legislation on irrigation districts, which is very specific about the role of the Board of County Commissioners. Today's public hearing is, as publicly noticed, a formal presentation of the petition to the BCC. Later in today's meeting, the BCC will set a date for a follow-up public meeting to review the petition and determine if it meets the criteria laid out in Idaho statutes.

Blaine County Chief Deputy Prosecuting Attorney Tim Graves said irrigation districts are quasi-municipal bodies. They operate under direction of their own elected boards of directors, independently of county government. Graves is reviewing relevant statutes to determine exactly what decision-making role the Board of County Commissioners has with respect to this petition.

The petition to partition Irrigation District #45 was filed with the Blaine County Clerk on July 11, 2013. Statutory filing requirements were met in filing the petition. Each Blaine County Commissioner subsequently received a date-stamped copy of the petition and its exhibits. The statutory requirements regarding land ownership, water rights, and the properties' agricultural nature also appear to have been met.

Blaine County Deputy Clerk/Recording Secretary Sunny Grant read publishing and posting notice of today's public hearing. Graves confirmed that requirements of public notice were met.

**McCleary moved, seconded by Greenberg, that adequate notice was given. Motion passed unanimously.**

Dan Nevala, counsel for the signers of the petition, said new state legislation on water districts was supported by many local water users. Idaho Code 43-1314 said the owners of a majority of the land, who also hold title to the water rights appurtenant to the land may petition to divide the district into two separate districts. The Code sets forth requirements for the petition and of the County Commissioners.

Idaho Code 43-1321 addresses the supplemental petition process. Nevala said two additional landowners will apply join the petition prior to the next public hearing; and, there will be an additional map depicting the supplemental petition property.

According to State statute, the BCC will set a second public hearing, at which time, the BCC will be asked to:

- find that the petition satisfies I.C. 43-1314, and that the majority of landowners and the majority of water right holders are in favor of the petition, and that the property is identified as agricultural.
- establish that the order, under I.C. 43-1322, would provide for both the new district and the old district; affirm that ownership is consistent with the petition; set forth how assessments would be collected; set bond for \$2,000; and, set election procedure.
- notify IDWR that the petition has been filed.

After the follow-up public hearing to address the petition is held next month, the BCC should notify IDWR of their final decision.

Andy Waldera, counsel for WRV Irrigation District #45, said the new legislation, with statewide application, seemed to be targeted to this irrigation district, where the landowners are also the water rights owners. Mr. Waldera's comments:

- This legislation in I.C. 43-1325, creates a board of control that will operate, manage and govern conjoined facilities by majority vote of the seats based on acreage/water shares. This legislation was first presented to the Idaho Water Users Association Legislative Committee in January 2013. The Committee tabled it and put it into a work group. When the work group returned it to the full Legislative Committee, they supported it. The person who drafted the legislation apparently did not notify District #45 of the legislation before submitting it to the Committee.
- The District wants to be sure they have assessment authorities within the new statutory provisions.
- I.C. 43-2301 deals with modification or dissolution of irrigation districts.
- The current District #45 Board will submit its comments in writing.

#### PUBLIC COMMENT:

- Non-petitioners and anti-petitioners questioned the legality of the petition and the upcoming public meeting process.

Graves reiterated that questions regarding the process and legality of the petition would be answered at the upcoming public hearing.

- Pepin Corso-Harris supported the petition. She felt the perception that little effort had been put into bringing the two entities together over the last year and a half was caused by a difference in looking at things.
- Non-petitioner Jan Super said petitioners had been given the opportunity to participate in District meetings and had frequently not done so.
- Anti-petitioner Raymond Goettsch attended many District #45 meetings and didn't hear that the district needed a change until the statute was passed without any notice.
- Anti-petitioner David Berman said his main concern was that votes would be based on the size of property. He suggested each property owner get one vote.

The Board of County Commissioners set a date for a follow-up public hearing for September 17, 2013, which is within the allotted time period of four to eight weeks from today's public hearing.

**McCleary moved, seconded by Greenberg, to set a hearing date for the petition of partition for the Wood River Valley Irrigation District #45 for September 17, 2013 at 10:30 a.m., and to notice that hearing in accordance with Idaho Code §4313-19 and to direct the Clerk of the Board of County Commissioners to deliver a copy of the petition, including exhibits and supporting documents and minutes of today's meeting and public comment to the Idaho Department of Water Resources (IDWR) as soon as possible. Motion passed unanimously.**

#### BREAK

#### **LAND USE AND BUILDING SERVICES, DISCUSSION AND CONSIDERATION**

##### **• Coyote Too Water Rights Review**

Also present: Blaine County Chief Deputy Prosecuting Attorney Tim Graves; and County Land Use Administrator Tom Bergin; Applicant Rod Kegley; Ron Bodner; Pam Matey; Michael Chapman; Don and Barb Miller; and Jim Freeman.

Bergin submitted new materials: two new public comments from Fred and Robin Bodner and Peterson Law Office.

Land Use received a request for a plat amendment from Rod Kegley dated July 18. The amendment requested is to delete Plat Note 22 relating to water rights in the Coyote Too Subdivision Plat. There is a notation that "These water rights shall remain attached to the Coyote Too Subdivision property in perpetuity and shall not be sold or otherwise transferred to any other place or use without prior written consent of Blaine County."

Land Use sent out notice and a copy of the plat to all surrounding landowners in the Coyote Too and Coyote Bluff subdivisions, and landowners within 300 feet of the subdivision. There was no legal notice or other public notice required. Greenberg said he wouldn't feel comfortable making a decision until all the homeowners are given enough notice to research the issue on their own.

Applicant Rod Kegley, developer of both Coyote Bluff and Coyote Too, said developers were historically allowed by state law to sell or transfer water resources that were no longer needed for a property. When Kegley tried to transfer the water rights to the homeowner association a number of years ago, he was told he couldn't transfer 10 acres of water right for eight acres of land. He has in the past donated water from paved areas of his subdivisions, including Coyote Bluff, to non-profits. Coyote Too is 10 acres, with eight 1-acre lots of irrigable land. The water rights are in his name. When Coyote Too properties were sold or transferred, he intended to honor his original agreement to irrigate 100% of all lots in both subdivisions.

Kegley said transferring 10 acres of water would give the homeowners association 27" of 1883 water for 24 1-acre lots and a homeowner's lot. That amount of water from May 1 to October 31 is a little over 12 million gallons of water. Three pumps irrigate the two subdivisions. If all ran constantly, they would pump 1.6 million gallons in one irrigation season. Coyote Too lots are owned by individual property owners, but they don't own the water rights.

County Chief Deputy Prosecuting Attorney Tim Graves said this was a difficult situation because he had concerns about the legality of the plat note. Subsequent to this plat note, there was a change in Idaho Code and a lawsuit in Blaine County regarding the County's ability to restrict water rights through a development application process.

#### **PUBLIC COMMENT:**

Coyote Too property owner Mike Chapman said Plat Note 8 said "Surface rights shall be owned by the homeowners association for use by each property owner." If water rights for Coyote Too are removed, is Coyote Bluff responsible for providing water for Coyote Too? Plat Notes 5, 7 and 22 say that Coyote Bluff is subject to covenants of Coyote Bluff Association; provide fire protection; and "Lots and common area shall be irrigated with existing agricultural water." When Chapman bought his lot, he understood water rights were owned by everyone in the subdivision.

Jim Freeman, president of the Coyote Bluff Association, said Coyote Bluff 1 and 2 are one association. The HOA owns water rights to Coyote Bluff and just assumed that the HOA owned the rights to Coyote Too as well. There are no homes on Coyote Too, but water is pumped from the upper bench all the way to the highway. Not all lots are irrigated yet.

Coyote Too landowner Chris May thought the HOA owned the water rights. He pays his HOA dues which cover water rights, including water rights dues for people who've lost their property.

Ron Bodner, partial owner of three Coyote Bluff lots, asked the BCC to deny any request to transfer or sell water rights as noted on Plat Note 22. Water rights are very important, and it's not fair to lose any of the water right.

Bergin notified the BCC that Blaine County holds a tax deed on one lot since property taxes on that lot were not paid.

Kegley said he always intended to give the HOA more than enough water to irrigate the entire subdivision. Fire protection for both subdivisions is not connected to surface water rights. Fire protection water for Coyote Too is in a 30,000 gallon buried water tank and runs downhill by pipe to two fire hydrants. Fire protection for Coyote Bluff is a 250,000 gallon pond that is full year-round.

Graves confirmed that Kegley was willing to transfer 8" of water (for the eight 1-acre lots in Coyote Too) to the Coyote I and II Homeowners Association.

Bergin said IDWR has not commented on this application, or even responded to the inability to transfer 10" of water for eight 1-acre lots.

#### **FY2014 BUDGET ITEMS RELATING TO BENEFITS**

Also present: Blaine County Human Resources Generalist Susan Potucek; County Clerk JoLynn Drage; Blaine County employees Michele Johnson, Char Nelson, Tim Graves; Jim Thomas; Tom Bergin; Diane Shay; Clay Landon; Bill Dyer; Spencer Gorringer; and Gene Ramsey.

The BCC decided to amend today's agenda to allow for this Budget Discussion. No decision will be made at this time.

McCleary said the BCC had time to think about their many decisions on the FY2014 budget. At a recent Idaho Association of Counties meeting, Medicaid and healthcare were discussed. Many counties have decided to not make any changes until the state makes more decisions early next year. The BCC

approved merit increases and market-rate increases. McCleary looked at how different employees would be affected by the health insurance change, and realized that many employees with dependents would experience a considerable cut in their compensation package even with the salary increases.

Blaine County Human Resources Generalist Susan Potucek re-presented County cost savings and employees compensation on different health insurance options.

McCleary carefully went over the FY2014 budget and listed items that could be reduced or eliminated in order to allow the County to afford an increased health insurance premium. Greenberg concurred with McCleary's approach and most of McCleary's specific suggestions.

Greenberg reiterated that he felt the Commissioners should be on the Kinds and Levels chart along with all other Blaine County employees and elected officials. He believed Commissioners should be paid commensurate with the knowledge and decision-making ability necessary to run Blaine County and commensurate with other county elected officials in Idaho.

**PUBLIC COMMENT:**

Sheriff Gene Ramsey agreed with the BCC's comments. He agreed that the BCC valued County employees as team members and wanted to compensate them accordingly. Ramsey expressed concern about lower-paid employees. He said employees wanted to keep their salaries, merit and market-rate raises first. He suggested the BCC consider health insurance option 2 and decrease the County contribution for dependents by 5%.

**ADJOURN**

At the hour of 3:27 p.m., the BCC finding no more business before them adjourned.

Attest: \_\_\_\_\_ Approved \_\_\_\_\_  
JoLynn Drage Lawrence Schoen  
County Clerk Chairman