

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

Fourth Day

Tuesday, October 27, 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; Recording Secretary Sunny Grant; and *Idaho Mountain Express* reporter Amy Busick.

Chairman Greenberg called the meeting to order at 9:03 a.m.

PUBLIC COMMENT

ARCH Community Housing Executive Director Michelle Griffith said a donated house has been relocated to the Buttercup Road site and is currently suspended above an excavated foundation. The house is currently very visible and Griffith reassured the BCC that ARCH will landscape the lot in the spring once the house is in place.

COUNTY DEPARTMENT REPORTS, Discussion and Consideration

Claims – Schar Boyd

- Deputy Auditor Schar Boyd presented the claims.

McCleary moved, seconded by Schoen, to approve claims dated October 22, 2015, with two additional claims presented today: Commissioner Angenie McCleary for \$179.20 and Redwood Toxicology for \$450.00. Motion carried unanimously.

County Clerk – JoLynn Drage

Fiscal Year 2015 financial records will be closed this week.

County Administrator - Derek Voss

Recent radon mitigation for the Old County Courthouse reduced the radon level to 2.0 picoCuries per liter; and the Judicial Building to 1.8 picoCuries per liter. 4.0 picoCuries per liter is considered safe. The County will test radon levels again in six months, then evaluate annually to ensure employee safety.

CONTRACTS, GRANTS AND AGREEMENTS, Discussion and Consideration

- **CH₂O, Inc.** Record #631020

This contract to test chemicals in the Annex heating room has been in place for a number of years.

McCleary moved, seconded by Schoen, to approve contract between Blaine County and CH₂O, Inc. for chemical testing at the Public Safety Facility in the Annex for \$165.95 per month, contingent upon operating conditions varying by a maximum of 10% from the initial survey. Quoted prices are firm for the first 60 days. Motion carried unanimously.

- **4 Points LLC Independent Contractor Agreement** Record #630728

Also present: Blaine County Land Use Administrator Tom Bergin; and Zoning Specialist Nancy Cooley.

This contract is identical to last year, except for a request for an increase to the hourly rate, which has not been evaluated since Jim Koonce retired four years ago. Almost all survey expenses are paid by private parties, and the County doesn't have a budget for survey expenses.

Schoen moved, seconded by McCleary to approve the independent contractor agreement between Blaine County and 4 Points LLC for independent survey services at \$97.50/hour. Motion carried unanimously.

- **Independent Contractor Agreement with Bailey Building Design, Inc.** Record #630769

Also present: Blaine County Land Use Administrator Tom Bergin; and Zoning Specialist Nancy Cooley.

This is for building inspection services. There are no changes except to the hourly rate and mileage rate. The building inspector uses his own vehicle. The current IRS mileage reimbursement rate is 57¢. Commissioner Schoen suggested the County settle on a consistent mileage reimbursement rate.

Schoen moved, seconded by McCleary, to approve the Independent Contractor Agreement between Blaine County and Bailey Building Design, Inc. for building inspection services, with compensation at the rate of \$40.00 per hour for each hour of building inspection services and vehicle mileage 57½¢ per mile. Motion carried unanimously.

- **Blaine County Security Agreement with Life Church Wood River** Record #630823

Also present: Blaine County Land Use Administrator Tom Bergin; Zoning Specialist Nancy Cooley and *Idaho Mountain Express* reporter Greg Moore.

This is a standard landscaping bond to be sure the landscaping is completed as agreed.

Schoen moved, seconded by McCleary, to approve the Security Agreement between Blaine County and Life Church Wood River for \$4,663.40 as security for complete performance of landscaping improvements on the Life Church Wood River property. Motion carried unanimously.

DEMOCRAT GULCH ROAD, Discussion and Consideration

Also present: Blaine County Chief Deputy Prosecuting Attorney Tim Graves; County Land Use Administrator Tom Bergin; County Road and Bridge Manager Tom Duffy; County Engineer Jeff Loomis; County Weed Department Manager John Cenarrusa; County Administrative Specialist Andrea Walton; and *Idaho Mountain Express* reporter Greg Moore.

Democrat Gulch Road is currently closed to motorized traffic. Greenberg visited the site with Environmental Consultant Will Miller and also met with the ranch manager of the surrounding lands who indicated he has had some trouble with off-road vehicles in the area. The whole area is overrun with noxious weeds.

County Road and Bridge Manager Tom Duffy explained that he would reopen Democrat Gulch Road by grading two miles of the road to a 10ft travel way with center crown and ditches on both shoulders. He estimated this would take three full crew days and could be completed before winter. Weeds would be cut with a pocket loader and hauled to the transfer station.

Schoen said Democrat Gulch Road is a public road through private property. The County needs to maintain the road, but grading it should be adequate. He thought the Army Corps of Engineers might want to examine the intermittent stream that runs alongside the road. He suggested shredding the dry weeds and leaving a fine residue behind. Chairman Greenberg said there were watersheds that dump into the road and the County has to be careful how the road is graded.

County Weed Department Manager John Cenarrusa said grading the road and shredding the weeds is the least expensive and easiest way to get the road open; and it would then be normally maintained. The area should be reseeded with native grasses in the spring.

Once the County maintains the road, it is a public road for its entire length including the area on BLM land. Schoen would prefer to open the road to access BLM public land as soon as possible, but it may be too dry to easily grade right now. Commissioners Greenberg and McCleary would like the road to be open to bicyclists and hikers in the spring. The BCC directed staff to research the necessity of any special permits and to grade the road when opportune to do so.

BLAINE MANOR AUCTION, Discussion and Consideration

Also present: Blaine County Chief Deputy Prosecuting Attorney Tim Graves; and *Idaho Mountain Express* reporter Greg Moore.

Commissioner Schoen said Musser Brothers hesitated to accept the BCC’s minimum acceptable sales price of about \$2.4 million; and County Attorney Tim Graves discussed a reserve price with Musser Brothers auctioneers. Musser Brothers suggested their auction fee be 1% of the highest rejected bid if the BCC does not accept any bid. Schoen said the BCC has no obligation in advance to agree or set a minimum acceptable price.

Voss said there is an underground storage tank on the premises that had diesel in it; and there may be asbestos in the building. He asked if the BCC wanted to take the time to have Department of Environmental Quality do an environmental assessment and perhaps required remediation, which could be extensive and expensive. The appraisal value took into consideration environmental concerns; and there are risks and concerns with continuing to own the property. Voss will negotiate a contract with Musser Brothers to do an online auction for 2% of the accepted sale price or 1% for highest rejected bid, plus Musser’s suggested amount for marketing expense.

CONSENT CALENDAR

- **Resolution 2015-53 Capital Improvement Fund Budget Adjustment** Record #630725
- **Junior College Residency forms**
 College of Southern Idaho, Spring 2015: Jason Howard
 College of Southern Idaho, Fall 2015 – Spring 2016: Morgan Buckert, Laura Espinal, Elizabeth Forsling, Lindsey Heather, John A Inman, Marisa Mendez, Kristen Olenick, Adriana Perez, Katie Walton, Robyn Yeager, and Jason Howard.

McCleary moved, seconded by Schoen, to approve the Consent Calendar dated October 27, 2015. Motion carried unanimously.

BOARD of COUNTY COMMISSIONERS REPORTS, Discussion and Consideration

Sawtooth Valley Fire Collaborative Meeting – McCleary

The Sawtooth Valley Wildland Fire Collaborative identifies and recommends location, type and scale of fuel treatments and other wildfire reduction strategies. The Collaborative identified six different areas in the Sawtooth National Recreation Area in Custer and Blaine Counties. The meeting was very well attended by people who suggested what the Forest Service should and could do to address potential fire risk and fire mitigation techniques.

Land, Water and Wildlife (LWW) Working Group – Schoen

The LWW Working Group presented their recommendations on resolved topics to the Levy Advisory Board at their regular meeting last week. The Working Group is still debating several unresolved issues,

including water rights; income from the property; and if a set of measurable guidelines or threshold approval standards should be established and, if so, with what conditions or exceptions.

Rock Creek Ranch State Legislative Committee (JFAC) Site Visit – Schoen

The State Legislative Joint Finance and Appropriations Committee (JFAC) recently toured various projects around the state that are looking for funding, including Rock Creek Ranch. JFAC was met by representatives from Idaho Fish and Game and other non-profit organizations, the University of Idaho and some non-committee legislators. There is a proposal for the University of Idaho to purchase Rock Creek Ranch to create a range grazing research station, which is a new concept for everyone, including the University. The BCC said this is not really the conservation-oriented project they considered, and until it is better defined, may not be what the Land Trust or The Nature Conservancy of Idaho would like to see on the property.

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.

Schoen moved, seconded by McCleary, 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

Schoen moved, seconded by McCleary, to approve Case #2015-61 Medical Indigent Application for Assistance, with a \$25 monthly reimbursement, based on staff recommendation. Motion carried unanimously.

Schoen moved, seconded by McCleary, to deny Case #2015-62 Medical Indigent Application for Assistance, based on staff recommendation. Motion carried unanimously.

Schoen moved, seconded by McCleary, to approve Case #2015-39 Medical Indigent Application for Assistance only for approved medical expenses, based on staff recommendation, with a \$25 monthly reimbursement. Motion carried unanimously.

BALLOT COUNTING DEVICE LOGIC AND ACCURACY TEST – Blaine County Elections Office

The BCC observed the ballot counting device logic and accuracy test. All processes were accurate and approved.

LAND USE and BUILDING SERVICES HEARINGS

- **Lot 1, Block 1, Henslee Ranch Sub. Plat Amendment:** The continuation of the public hearing and consideration of a plat amendment application by property owners Rolf and Nancy Engh of 300 Pole Creek Rd. They propose relocating an existing platted building envelope to incorporate existing, unpermitted structures consisting of a garage, two outhouses and three yurts; adding a new habitable building envelope and a new non-habitable building envelope. The subject property lies within the Sawtooth National Recreation Area (SNRA) and is zoned Rural and Remote District (RR-40), contains areas of Mountain Overlay District (MOD), Floodplain Overlay and Riparian Setback Districts. The property consists of 640 acres located approximately 1.5 miles northeast of Smiley Creek in the Henslee Ranch Subdivision, Lot 1, Block 1 in Section 25, T7N, R14E, Blaine County, BM, Idaho. The public hearing is continued from July 14, 2015.

Also present: Blaine County Chief Deputy Prosecuting Attorney Tim Graves; Blaine County Land Use Administrator Tom Bergin; Zoning Specialist Nancy Cooley; applicants' representative Sean Flynn; US Forest Service Sawtooth National Recreation Area Ranger Kirk Flannigan and US Forest Service Private Lands Administrator Sharon Browder.

Cooley read notice.

McCleary moved, seconded by Schoen, that notice was adequate. Motion carried unanimously.

DISCLOSURES: Chairman Greenberg, Commissioner McCleary and Commissioner Schoen were all onsite on different days, and met with applicants' representative(s), Land Use and US Forest Service staff.

NEW MATERIALS: Cooley submitted a public comment from Sun Valley resident John Kelley; and two-page comment from the US Forest Service that came in this morning; and one additional comment.

Applicants' Rolf and Nancy Engh propose to relocate an existing platted building envelope to incorporate existing, unpermitted structures consisting of a garage, two buildings and three yurts; add a new habitable building envelope; and add a new non-habitable building envelope. The subject property lies within the Sawtooth National Recreation Area, and is zoned Rural and Remote District, contains areas of Mountain Overlay District (MOD), Wetland Overlay, Floodplain Overlay and Riparian Setback Districts.

Applicant's representative Sean Flynn reviewed changes made in the application since the previous BCC meeting on July 14, 2015 that addressed this application:

- The revised habitable building envelope is outside a 75ft setback based on a wetland evaluation done by environmental consultant Trent Stumph.
- The revised non-habitable building envelope for a barn is now outside the Mountain Overlay District buffer.

Flynn showed the BCC a digital rendering of how visible a structure on the proposed building envelope would be from different vantage points.

The existing three yurts have been on the property since the Enghs purchased the property, and they propose the triangular building envelope to keep the yurts on the property. If the BCC approves the building envelope, the Enghs will go through the County permitting process and also request easement approval from the Forest Service before recording the plat.

Applicant Rolf Engh said the USFS has tried to affect use of their property on numerous occasions. They asked that USFS comments be handled directly through the USFS process, and not as part of the County process. Rolf said their current proposed plat amendment application positions their building envelope out of the MOD and sites their house where it is far less visible to the public.

SNRA Ranger Kirk Flannigan said in his letter, submitted to the BCC this morning, he and three other area rangers have worked with the Enghs since they purchased the property 15 years ago. All three currently-proposed building envelopes have been approved by area rangers with stipulations. The USFS would like to see, according to the easement, one building envelope for a residential structure. They are okay with the building envelope on the east-northeast side of Pole Creek, but there is a riparian easement that follows Pole Creek, no less than 20ft and no greater than 400ft that allows the USFS to work in and around Pole Creek. The USFS is okay with the current existing building envelope where the yurts are located, but would prefer it be lower to lessen visual impact.

Flannigan said the three yurts, as they currently exist, are outside the terms of the Conservation Easement and the USFS recommends removal of the yurts. The USFS also recommends modifications to the barn roof to reduce its visibility; and that the bridge that crosses Pole Creek be brought to federal, state and county standard. The USFS needs confirmation that the three privies meet health code; and wants to be sure the roads are minimum necessary to allow Enghs access to their building envelopes.

PUBLIC COMMENT:

- Neighbor of Enghs said they are the best stewards of the land.
- Another neighbor, Wes Wills, has property immediately west of the Engh property. He is concerned about the process, since SNRA and conservation easement regulations can complicate Blaine County land regulations. It is very important that the County administer its regulations and the Forest Service administer its regulations.

Applicant Rolf Engh said he had not had opportunity to review the letter from John Kelley. He said he knew when he bought the property that he would have to comply with the conservation easement, but that the USFS had been very difficult to work with over the years.

Nancy Engh said she agreed with Mr. Kelley's note that this is a beautiful view of the Sawtooth Valley, and that is why they bought the property. There are other points along Valley Road and Highway 5 that have beautiful vistas of the Sawtooth Valley.

SNRA Private Lands Administrator Sharon Browder said the United States holds the right to fence, manage and protect, as prescribed by the SNRA, a Pole Creek riparian easement. Flannigan said he couldn't imagine the riparian easement needed to extend 400ft.

County Attorney Graves said this is a plat amendment application, requesting approval of an additional building envelope. Enforcement of County ordinances or USFS easements are irrelevant to this application; although they are highly relevant to the property and would ordinarily be in compliance before an applicant requests a plat amendment before the BCC. Graves said these conflicts with County Code and the USFS are separate matters and not part of this discussion.

Graves said the two standards of evaluation to be addressed are:

Is the existing character of the 2000 subdivision being impacted by this proposal?

- Commissioner Schoen said the BCC in 2000 carefully considered the application and approved it, with substantial plat notes, including that there shall be one residence on one (large) building envelope. This proposal is for three building envelopes. He feels this application would alter the existing character of the subdivision. He said the original intent of the subdivision was to confine development to an area that is well out of sight. Schoen added that the USFS commented in 2007 that the applicant has developed the property without regard to review or approval from any regulatory agency and without any obvious intention to rectify missteps other than to extend the building envelope to incorporate some of the non-compliant structures into a legally-buildable area, expanding the building envelope into more visible areas. Schoen mentioned other existing violations.
- Chairman Greenberg agreed with Schoen. He said the applicant's request alters the existing character of the subdivision.

Is the plat amendment in compliance with County Code?

- Commissioner McCleary said that adjusting building envelopes out of the wetlands delineation and Mountain Overlay District alleviates her concerns from the July meeting.

- Chairman Greenberg said he reviewed the original 2000 request, which was never recorded, and considered this a new request and compared it with the 2007 request. He could not approve eliminating the original building site and moving it further into the MOD. Greenberg added that he thought the USFS letter seemed to indicate a willingness to work with Enghs.
- Commissioner McCleary doesn't have a problem with the proposed new non-habitable building envelope; but she cannot approve moving the existing residence building envelope to the proposed primary residence building envelope site which is further into the MOD, and she cannot support having an additional residence building envelope.

Schoen moved, seconded by McCleary, to deny application of Rolf and Nancy Engh to amend the plats relocating the existing habitable building envelope, add a non-habitable building envelope and add a second habitable building envelop on Lot 1 Block 1 Henslee Ranch Subdivision, on the basis that it would materially alter the character of the existing subdivision, and there are elements of application that are not in compliance with Blaine County Code Titles 9 and 10. Motion carried unanimously.

LAND USE and BUILDING SERVICES, Discussion and Consideration

- **Findings of Fact: Glick-Griffin Ranch Plat Amendment**

Schoen moved, seconded by McCleary, to approve Findings of Fact, Conclusions of Law and Decision in the application of the Glick family for a plat amendment. Motion carried unanimously.

APPROVAL OF BOARD OF COUNTY COMMISSIONERS MEETING MINUTES

- **June 2, June 22 and June 24, 2015 - FY2016 Budget Hearing Meetings**

Schoen moved, seconded by McCleary, to approve Board of County Commissioner Budget Hearing Meeting minutes of June 8, June 22 and June 24, 2015, as amended. Motion carried unanimously.

ADJOURN

At the hour of 3:44 p.m., with no more business before them, the County Commissioners adjourned.

Attest: _____ Approved _____
 JoLynn Drage County Clerk Jacob Greenberg Chairman