

**OFFICE OF THE BOARD OF COUNTY COMMISSIONERS  
OF BLAINE COUNTY  
SPECIAL MEETING OF THE SEPTEMBER 2016 SESSION**

**Third Day - Evening**

**Tuesday, September 19, 2016**

Pursuant to Statutory Provisions, the Board of Blaine County Commissioners (BCC) met this evening at 6:00 p.m. Present were Chairman Jacob Greenberg, Vice-Chair Angenie McCleary, Commissioner Lawrence Schoen; County Attorney Tim Graves; County Sheriff Gene Ramsey; County Social Media Services Provider Bronwyn Nickel; Recording Secretary Sunny Grant; Idaho Transportation Department Foreman Brad Lynch; County resident Arnold Marz; County residents Len and Carol Harlig; and *Idaho Mountain Express* reporter Madelyn Beck.

Chairman Greenberg called the meeting to order at 6:00 p.m.

**CELL PHONE HANDS-FREE DRIVING ORDINANCE, Discussion and Consideration**

Blaine County Attorney Tim Graves said the only notice required for tonight's meeting is Agenda Notice. If the ordinance is passed, it will be published in the Legal Notices of the local newspaper and will become effective upon publication.

Graves said Blaine County's proposed ordinance is modeled after city ordinances already passed.

The proposed ordinance generally defines:

- "Actual Physical Control" as the act of being the driver of a motor vehicle while the engine is running;
- "Handheld Mobile Electronic Device" as handheld electronics;
- "Use" as talking, listening, typing, sending, receiving messages, commands, prompts, etc.; and
- "Hands-Free Mobile Electronic Device" as Bluetooth, car enabled system, etc.

The proposed ordinance provides that the use of a handheld electronic mobile device by a person in actual physical control of a motor vehicle on any public road, highway or private road open to the public within unincorporated areas of the county shall be unlawful.

There are four proposed exceptions:

- A person using a hands-free mobile device.
- Law enforcement, fire departments, operators of authorized emergency vehicles.
- Drivers who are parked in a designated parking area, or pulled to a stop completely outside the lane of traffic, or pulled to a stop and not causing a road obstruction of traffic, such as pulled to the side of a rural road.
- Persons who use handheld electronic mobile devices to report a fire, traffic accident, serious road hazard, or medical or hazardous materials emergency.

The proposed violation is an infraction that can be challenged in court, and incurs a fixed penalty of \$100.

The Sheriff considers this proposed ordinance an educational tool to make people aware of distracted driving. Law enforcement officers will have discretion in whether to conduct a traffic stop and whether to write a citation; and the County Prosecutor will have discretion in whether to prosecute an offense.

Commissioners' and Sheriff's comments:

- Commissioner McCleary said local residents who have contacted her are concerned about distracted driving and all have been in support of the ordinance.
- Blaine County Road and Bridge, Idaho Transportation Department, Mountain Rides Transportation Authority and local city street managers expressed concern about how the ordinance might impact 2-way radio use during road projects.
- Commissioner Schoen reported that, in speaking with citizens, he had heard a split reaction, with a slight majority in favor. Employers whose employees drive for work have expressed concern because they can't usually afford Bluetooth. He said parents are concerned about answering the phone if their child calls.
- If someone denies they were using a handheld device, does the officer need to obtain a warrant? Sheriff Ramsey said a handheld cell phone violation isn't a major offense; officers will mostly talk to people they stop and will certainly use common sense in their discretion. Sheriff Ramsey said 2-way radio conversations are usually very short; whereas cell phone conversations tend to be longer.
- Commissioner Schoen questioned whether the handheld cell phone restriction is not more appropriate in an urban environment. He would prefer to see it be statewide legislation, consistent from jurisdiction to jurisdiction throughout Idaho. He does not support a public employee exception.
- Chairman Greenberg said he had to pull someone out of a ditch who was talking on a cell phone; and he'd seen people on rural roads pulling a trailer and talking on the phone. He agrees the legislation should be on the state level and consistent from jurisdiction to jurisdiction.

- Commissioner McCleary said distracted driving could be just as dangerous on a rural road, especially at high speed, with animals and wildlife, farm equipment and cyclists.

**PUBLIC COMMENT:**

- Arnold Mars suggested the BCC consider victims as well as inconvenience of drivers and employers. Driving requires split-second decisions, such as when a deer crosses in front of your car. Drivers commit to safely operating a dangerous vehicle among other people when they get a driver’s license.
- Carol Harlig said close calls she’s seen inevitably involve a driver using a cell phone.
- Len Harlig said cell phone use needs to have a rational balance. People should be able to drive without inconsequential distraction.
- ITD Foreman Brad Lynch said ITD drivers who use cell phones while driving a state vehicle face serious consequences. ITD drivers do communicate on radios, especially during the winter.

Graves said radios and other communication equipment that is permanently attached to vehicles would not be considered mobile.

Graves suggested additional language: Law enforcement and emergency communication officials, while in the actual performance of their duties, or the operator of a publicly-owned vehicle during the performance of an essential public function, can use a handheld cell phone, although the driver should pull over if at all possible. He said Dispatch will typically keep someone on the line during an emergency call because the person can be helpful and/or a witness.

**McCleary moved, seconded by Schoen, to approve Blaine County Ordinance 2016-06, an ordinance of Blaine County, Idaho, amending Title 5 of the Blaine County Code by adding Chapter 5, prohibiting the use of handheld mobile electronic devices while driving, except under certain conditions, providing for an infraction fine of \$100, providing a severability clause, and providing an effective date, subject to publication of this ordinance. Motion carried unanimously. .... Record #638234**

**ADJOURN**

**At the hour of 7:32 p.m., with no more business before them, the County Commissioners adjourned.**

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