

**OFFICE OF THE BOARD OF COUNTY COMMISSIONERS
OF BLAINE COUNTY
REGULAR MEETING OF THE JANUARY 2019 SESSION**

Third Day

Tuesday, January 8, 2019

Pursuant to Statutory Provisions, the Board of Blaine County Commissioners (BCC) met this day at 9:00 a.m. Present were Chairman Angenie McCleary, Vice-Chairman Lawrence Schoen and Commissioner Jacob Greenberg; County Administrator Derek Voss; County Administrative Services Manager Mandy Pomeroy; County Commissioner-elect Dick Fosbury; and Recording Secretary Sunny Grant.

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

PUBLIC COMMENT – None

COUNTY DEPARTMENT REPORTS, DISCUSSION and CONSIDERATION

Claims – Gretchen Stinnett

- Deputy Auditor Gretchen Stinnett presented the claims.

Schoen moved, seconded by Greenberg, to approve claims ... County claims dated January 4, 2019. Motion carried unanimously.

County Administrator - Derek Voss

- Blaine County has received notice from PERSI of a possible rate increase.

CONSENT CALENDAR

- **Junior College Certificate of Residency forms:** College of Southern Idaho, Fall 2018-Spring 2019: Jose Cayeros Adame; Keith Andrews; Rebecca J Hogan; William Niedrich; Bill F Pereira; Andy Ruiz; Joslyn S Taylor; Jorge Vallejo; and Collin Whitby.

Greenberg moved, seconded by Schoen, to approve the Consent Calendar for Tuesday, January 8, 2019. Motion carried unanimously.

BOARD of COUNTY COMMISSIONERS REPORTS

- **Letter from Public Defense Commission** – Greenberg
Greenberg and the County Clerk will work with the County's public defenders to be sure they're responsive to the Public Defense Commission's annual review.
- **Ambulance Contract Quarterly Updates** - Greenberg
Received Ambulance Contract Quarterly Update from Wood River Rural Fire District. The BCC did not receive a budget or quarterly update from Ketchum.

US ARMY CORP OF ENGINEERS

CONTINUING AUTHORITIES PROGRAM STUDY INITIATION

- **Section 205, Small Flood Damage Reduction Projects**
- **Section 206, Aquatic Ecosystem Restoration**

Also present: Blaine County Land Use Administrator Tom Bergin; County Certified Floodplain Manager Kristine Hilt; County Engineer Jeff Loomis; and Wood River Land Trust Project Coordinator Ryan Santo.

The County was approved for assistance by the US Army Corps of Engineers (ACE) only under the Continuing Authorities Program Section 206 Aquatic Ecosystem Restoration Program. Schoen reports that he suggested to ACE that Section 206 could affect Section 205 Small Flood Damage Reduction Project which also has been requested and it may be more efficient and effective for projects under both programs to be undertaken at the same time. ACE has just informed the County that it has reconsidered and approved \$100,000 initial study funds for Blaine County for both Section 205 and Section 206 program. Section 206 is a detailed initial study, and could cost up to \$500,000. The balance under either program is costshared with the County 50/50. Design and implementation phases would be cost shared with ACE 65% and local 35%.

The BCC discussed if they should authorize ACE to move forward in the initial study phases. ACE professionals do all the work, which is expensive, but staff workloads aren't affected. County Certified Floodplain Manager Kristine Hilt said recent experience with ACE suggested their timeframe could be lengthy and their price higher than a private company; and reiterated that recent experience with ACE didn't meet the County's expectations. Chairman McCleary thought the funded first part of the initial study would give staff the opportunity to decide if Blaine County should go forward.

Schoen moved, seconded by Greenberg, to authorize the Chairman to send an email to Tatton Suter of the Army Corps noting that Blaine County has agreed to moving forward with Section 205 and Section 206 Study Initial Phase Studies of the Corps Continuing Authorities program, in

cooperation with the US Army Corps of Engineers. Motion carried unanimously.

EXECUTIVE SESSION - Idaho Code 74-206 1(a) to consider hiring a public officer, employee, staff member or individual agent, and to evaluate the respective qualities of individuals to fill the vacancy or need, in this case candidates for County Representative on the Mountain Rides Board of Directors.

Greenberg moved, seconded by Schoen, to go into Executive Session, pursuant to Idaho Code 74-206 1(a) to consider hiring a public officer, employee, staff member or individual agent, to evaluate the respective qualities of individuals to fill the vacancy or need, in this case, candidates for County Representative on the Mountain Rides Board of Directors. Roll Call: McCleary (aye), Greenberg (aye), and Schoen (aye). Motion carried unanimously.

Open session resumed.

BLAINE COUNTY ROAD RIGHTS-OF-WAY

- **Resolution 2019-03**Record #657675
- **Ordinance 2019-01** Record #657672
- **Road Right-of-Way Management Plan**
- **Roadway Functional Classification**
- **Road Inventory Classifications**
- **2019 Road Construction Standards**
- **Road Standard Typical Sections**
- **Approach & Encroachment Permit Application**

Also present: Blaine County Chief Deputy Prosecuting Attorney Tim Graves; County Land Use Administrator Tom Bergin; County Engineer Jeff Loomis; County Road and Bridge Manager Steve Thompson; County Administrative Services Specialist Esmeralda Palomera; Tom Blanchard; and Richard Gouley.

Chairman McCleary related a public comment concern about Lees Gulch Road in the Blaine County Road Inventory Classification. Lees Gulch Road is listed as a County road, but the County has initiated validation process and Lees Gulch Road’s status is undetermined at this time. County Attorney Tim Graves said both Lees Gulch and Imperial Gulch roads could be classified the same. Both roads will now be listed as, “To be determined.” County Administrator Derek Voss said the Management Plan is not an ordinance and is not law, but is dynamic and will be managed actively.

Public Comment:

- Richard Gouley asked about the status of Lees Gulch Road, and how its status would affect maintenance of the road.
County Attorney Graves said Lees Gulch is under review and subject to the validation process.

Blaine County Administrator Derek Voss said the resolution authorizes the County to begin to implement the Management Plan. The Ordinance provides law that enables enforcement of the Management Plan.

Schoen moved, seconded by Greenberg, to approve Blaine County Resolution 2019-03, a resolution adopting a Blaine County Road Right-of-Way Management Plan to provide standards, procedures, and policies for road rights-of-way within Blaine County, Idaho, as amended. Motion carried unanimously.

Greenberg moved, seconded by Schoen, to approve Blaine County Ordinance 2019-01, an ordinance of Blaine County, Idaho, amending and replacing Blaine County Code Title 6, concerning roads and public ways, and providing for required permits, temporary road closures, prohibitions against parking and placement of material in public rights-of-way, roadside vending, and operating motorized vehicles on designated right-of-way easements, criminal penalties and enforcement, a severability clause and an effective date. Motion carried unanimously.

APPROVAL OF BOARD OF COUNTY COMMISSIONERS MEETING MINUTES

- **September 24, 2018 Special Meeting Minutes**
- **December 4, 2018 Regular Meeting**
- **December 5, 2018 Special Meeting Minutes**

Schoen moved, seconded by Greenberg, to approve minutes of September 24, 2018 and December 5, 208 Special Meetings; and December 4, 2018 Regular Meeting. Motion carried unanimously.

FRIEDMAN MEMORIAL AIRPORT AUTHORITY MEETING PREVIEW

Also present: Airport Manager Chris Pomeroy and Friedman Memorial Airport Contracts/Finance Administrator Lisa Emerick.

Two action items on tonight’s agenda.

- Auditor’s annual presentation.

- Updates on terminal improvements.

BREAK

LAND USE and BUILDING SERVICES HEARINGS

- **Initiation of Imperial Gulch Road Validation Proceedings: Consideration of a petition by Jae Hill, owner of 99 Imperial Gulch Road, requesting initiation of public proceedings to validate Imperial Gulch Road as a public right-of-way.**

Also present: Blaine County Chief Deputy Prosecuting Attorney Tim Graves; County Land Use Administrator Tom Bergin; County Zoning Specialist Nancy Cooley; County Engineer Jeff Loomis; County Road and Bridge Manager Steve Thompson; petitioner Jae Hill; realtor Janine Bear; attorney Ed Lawson; Deer Creek Ranch Manager Bill Murphy; Kim Hofeldt; Greenhorn HOA president Jeff Seely; Greenhorn residents Joan Swift and Tom Swift; Kim Seely; and *Idaho Mountain Express* reporter Mark Dee.

Blaine County Zoning Specialist Nancy Cooley said no public notice was required, but Land Use department provided notice to surrounding landowners, published notice on the County webpage, and mailed notice to Sawtooth National Forest Ketchum District Ranger Kurt Nelson and Imperial Gulch neighbor, Western Adventure Luxury Tours.

County resident Jae Hill filed a petition for validation of Imperial Gulch Road, saying that people had historically used the road. He said an 1881 statute said any road being used by the public is a public road, and in 1887 was revised to state that any road in use by the public for five years is a public road. Hill added that Greenhorn Road is a private road and Greenhorn Homeowners Association prohibits parking along the road, so the only real access to his property in the winter is to hike up Imperial Gulch Road.

County Attorney Tim Graves said the BCC will address a petition for the BCC to initiate road validation proceedings for a stretch of Imperial Gulch Road, as authorized by Idaho Code §40-203A. The validation process allows the County Commissioners to review legal establishment of the highway or public right-of-way through one of several means, i.e., platting, dedication, prescriptive easement, historical use and maintenance, historical roads created through a R.S.-2477 federal grant, etc. The BCC can review evidence that the road is legally established as a highway or public right-of-way; and whether the location or establishment of the public right-of-way cannot be accurately determined due to numerous alterations; loss or destruction of the original survey, etc.; and whether the public right-of-way or highway as traveled does not generally conform to the location of the highway or public-right-of-way described on the official highway system map or in public records.

Imperial Gulch Road was damaged during the 2017 flood and BLM required the County to repair the road for public safety according to County right-of-way maintenance obligation. Thompson said he couldn't find records of the County doing any prior maintenance on Imperial Gulch Road. Imperial Gulch Road resident Jae Hill said the BCC's action in relinquishing the BLM grant back to BLM had required him to maintain the BLM's public road on behalf of the public.

Public Comment:

- Ed Lawson, representing Greenhorn Homeowners Association, owner of Greenhorn Road and the easement on Lot 16-17 between Greenhorn and Imperial Gulch roads, said the petition was unclear as to what part of the road the petitioner is seeking to have validated.
- Neighbors questioned whether Imperial Gulch was a public highway, and if it is validated, suggested that development would impact wildlife.
- Jim Phillips, representing Deer Creek Ranch, said Deer Creek had never denied public access across its property, Imperial Gulch Road. He asked the BCC to take their time in addressing this petition, especially since there are other roads with similar unknown status.
- Jeff Seely, Greenhorn resident and president of Greenhorn Homeowners Association, said Greenhorn Road does not conform to County required width, so a parked car blocks a whole lane. Seely said not that many people recreate off of Imperial Gulch Road. He said it was good that Hill had committed to maintaining Imperial Gulch Road, but what happens if Hill leaves the area and the road isn't plowed, and who is liable if there is an accident.
- Janine Bear encouraged the validation process to clarify road status for all landowners in the Greenhorn area and other County roads with undetermined status.
- Jae Hill, petitioner, said the County was obligated to maintain Imperial Gulch Road while it held the BLM grant.
Hill said a road can't be abandoned if it's the only access to a property.

BCC deliberations:

- Commissioner Schoen didn't feel validation was necessary, because no one was debating if the road existed or its location, use or status. Additionally, access to public lands in the area is available in the immediate vicinity. Schoen said Hill has access to his property, and he didn't feel the County should be responsible for maintaining it.
- Chairman McCleary didn't think the status of Imperial Gulch was clear, and that validation proceedings were appropriate.

If the BCC determines that validation should proceed, further proceedings require a survey of the road, additional facts and evidence, public comment, and a report presented to the BCC at a final hearing when the BCC will determine the legal status of the road. Attorney Graves advised the BCC to initiate validation to give all parties the opportunity to make their case. The BCC calculated a reasonable fee for County attorney and Land Use staff time, application fee and proceedings to be \$2,750.

Schoen moved, seconded by Greenberg, to initiate public proceedings to consider validation of the public right-of-way known, the right-of-way known as Imperial Gulch Road, stipulating that the petitioner shall pay fees as follows: \$2,750 to the County to cover both services of the County Prosecuting Attorney and the Land Use department, as well as to pay directly the cost of survey, and survey shall be required for the proceedings. Motion carried unanimously.

TITLE 9 ZONING REGULATIONS TEXT AMENDMENT - Home Occupations (CONTINUED FROM DECEMBER 18, 2018): A public hearing on and consideration of county-initiated amendments to Blaine County Code, related to Home Occupations. Amendments are proposed to Chapters 2, 3, 5, 5A, 6, 7, 10, 11, 14, 206 South 1st Avenue 15, and 25. The amendments were recommended for approval by the P&Z Commission on November 1, 2018.

Also present: Blaine County Land Use Administrator Tom Bergin; County Land Use and Building Services Deputy Director Kathy Grotto; and Mike Beck.

County Land Use and Building Services Deputy Director Kathy Grotto said notice was by posted agenda.

The BCC reviewed final revisions to the text amendments.

Public Comment:

- Mike Beck supported the text amendments.

Greenberg moved, seconded by Schoen, to approve the proposed amendments related to Home Occupations be granted as recommended by the Planning & Zoning Commission, as modified, finding that they're in accordance with the Comprehensive Plan, and will not have negative impacts on potable water sources or the delivery of services.

Schoen: Do you want to state the ordinance number?

McCleary: I wouldn't have [unintelligible]

Grotto: Right. That is correct.

Schoen: Second.

McCleary: So, for discussion, you said as modified from Planning & Zoning Commission, and there's quite a few modifications from what came forward from Planning & Zoning.

Greenberg: Well, as modified today to, to reflect that ...

Schoen: I, I, I don't think we need to go through every detail ... as modified from Planning & Zoning Commission. It was modified, and including what we did today ... So I'm fine with it.

All three Commissioners: Aye.

Motion carried unanimously.

LAND USE and BUILDING SERVICES

• Planning & Zoning Commission Compensation

Also present: Blaine County Land Use Administrator Tom Bergin; and County Land Use and Building Services Deputy Director Kathy Grotto.

Blaine County Land Use Administrator Tom Bergin said it had been 12 years since Planning & Zoning Commissioners had received a pay increase for attending P&Z meetings; and asked the BCC to consider an increase to \$175 or \$200 per meeting and site visit. The BCC would have preferred to see this request during the budget process, but are willing to discuss a request further at a future meeting.

LAND USE and BUILDING SERVICES HEARINGS

- **Title 9 Zoning Regulations Text Amendment - Floodplain Overlay District and Riparian Setback District** (CONTINUED FROM JANUARY 2, 2019): Public hearing on and consideration of text amendments to the Floodplain Overlay District chapter of the Blaine County Code Zoning Regulations. Amendments are proposed to Sections 1 through 9 of this chapter. The P&Z Commission recommended approval of amendments on November 1, 2018.

Also present: Blaine County Chief Deputy Prosecuting Attorney Tim Graves; County Land Use Administrator Tom Bergin; County Certified Floodplain Manager Kristine Hilt; County Engineer Jeff Loomis; Wood River Land Trust Project Coordinator Ryan Santo; attorney Jim Speck; attorney Evan Robertson; Sun Valley Board of Realtors Government Affairs Director Bob Crosby; Norma Douglas; Jan Mason; Marc Reinemann; Patti Lentz; Claire Casey, and Frank Willey.

Notice was by posted agenda. The website is up to date with public comments.

No new materials except last minute public comments.

Land Use staff said some public comments requested the County have the same Ordinary High Water Mark definition as the State of Idaho and Army Corps of Engineers to avoid conflicts among different jurisdictions. Hilt said the County has a number of Stream Alteration Security Agreements in place that

depend on the current definition. The BCC agreed to retain current definitions.

Public Comments:

- Sun Valley Board of Realtors Government Affairs Director Bob Crosby asked the BCC to reconsider requiring a 10-year cumulative timeframe for substantial projects so people would have a shorter window (2-3 years) that will allow for additional improvements and their tracking of costs to start over sooner.
The BCC reiterated that County staff works cooperatively with homeowners to help facilitate repair and restoration as needed in situations, in interpretation of the Code.
- Attorneys Ed Lawson and Jim Speck and resident Frank Willey said there are still problems with the proposed ordinance, specifically the riparian zone and grandfather consideration, that could be resolved with more time and consideration.
- Claire Casey said the river is beautiful and vital to Blaine County, but people keep adding intrusions to the river and eventually it will go straight down the valley and no longer be a wild and scenic river.
- Jan Mason lives on the river in Riverbend Subdivision, and encouraged the County to protect the river and enforce the ordinance.

The BCC agreed to approve the Text Amendments as amended today, and revisit it after results of the Cardno study are received.

Schoen moved, seconded by McCleary, to approve the text amendments, Title 9 Chapter 17, related to the Floodplain Overlay and Riparian Districts, in concept, pending final approval of the ordinance at the earliest opportunity, based on the amendments and revisions that were heard in today’s hearing, based on this Board’s Finding that this, these text amendments are in compliance with the Comprehensive Plan of Blaine County, would not have adverse impacts upon potable water supplies or the provision of services and public facilities in Blaine County.

McCleary: For discussion, are there items that you want to modify or change in the ... we usually have an opportunity to, to discuss any of the other items if there was anything that people wanted to, each of us, I should say, wanted to change? Greenberg: Is there something that you wanted to change? McCleary: Oh, one that that I was, thought that we were going to discuss, but I hadn’t heard further was on whether the number of years should stay at 10. I heard from Commissioner Schoen, and I hadn’t heard from you, and I didn’t know if there was other items you wanted to talk about, you know, I don’t know if because you didn’t second it, you ... you’re not in support of it ...

Greenberg: Well, I ...

McCleary: I want an opportunity to hear from you, I ...

Greenberg: Yeah, I’m like you. I don’t think we had discussion on those other items, so, if you want to have that discussion ... you already seconded it ...

Schoen: Yeah, you seconded it, so ...

Greenberg: It’s up to you, Madame Chair.

McCleary: Well, I guess I wanted to know if there were things that you had wanted to discuss.

Greenberg: No, I brought those up, and we had discussion, so I’m ... [unintelligible] unless you want to have a discussion about substantial improvement, removal of the permit for insubstantial damage, I think is appropriate.

McCleary: [unintelligible]

McCleary: All those in favor?

McCleary and Schoen: Aye.

McCleary: All those opposed?

Greenberg: Nay.

McCleary: Okay.

ADJOURN

At the hour of 4:57 p.m., with no more business before them, the County Commissioners adjourned.

Attest: _____ Approved _____
 JoLynn Drage Angenie McCleary
 County Clerk Chairman