

**OFFICE OF THE BOARD OF COUNTY COMMISSIONERS
OF BLAINE COUNTY
REGULAR MEETING OF THE MARCH, 2021 SESSION**

Second Day

Tuesday, March 9, 2021

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, and Commissioner Dick Fosbury; County Administrator Derek Voss; Chief Deputy Prosecuting Attorney Tim Graves; Deputy Prosecuting Attorney Amanda Greer; Treasurer John David Davidson; County Administrative Services Manager Mandy Pomeroy; Outreach and Education Specialist Stephanie Carlson; County Services Manager Brooke Baird; Recording Secretary Sunny Grant; Idaho Mountain Express reporter Gretel Kauffman; and Kiki Tidwell. Virtual Meeting Specialist Stephen McDougall Graham was present for the morning session.

Due to the continuing COVID-19 pandemic, many participants in this meeting were by webconference or teleconference.

Commissioner Fosbury called the meeting to order at 9:00 a.m.

One Year Anniversary of COVID-19 Pandemic Outbreak in Idaho

The BCC recognized the upcoming March 13 anniversary of the first publicized outbreak of COVID-19 SARS-CoV-2 pandemic in Blaine County by expressing their appreciation to the community, particularly healthcare workers and non-profits, for everything everyone has done to alleviate the personal, emotional, economic and financial impacts of the deadly virus on the community. The community will remember its departed loved ones on Saturday, March 13, by ringing bells at noon, and howling at 8:00 in the evening.

PUBLIC COMMENT:

- Richard Gouley said documents relating to Lee's Gulch Road validation have been removed from the County website by instruction from Tom Bergin. This Lees Gulch record has been lodged in the District Court, and Gouley is in the process of confirming the completeness or lack thereof of that record by April 1, and this is a stumbling block in his review. Gouley said the clerk said he was welcome to come to the office and go through the documents, close to 8,000 pages, but he didn't think he should have to come into the office to review the documents. Gouley asked that the complete and unaltered document file be immediately returned to the public website.
Gouley said that the Edris Mine is not in Lee's Gulch, as stated in the County's updated Comprehensive Plan, Chapter 9, page 24, "... the Edris Mine in Lee's Gulch." Gouley said Tom Bergin previously said the Comp Plan would be corrected if possible; and Gouley asked that this error be corrected.
 - *The BCC was not aware that Lee's Gulch documents were removed from the County website, and will check with Land Use to get them reinstated.*
- Kiki Tidwell asked the BCC to review their March 2 approval process of the draft Findings of Fact of the Conditional Use permit modification by Idaho Power. Tidwell said she twice requested a Freedom of Information Act copy of the BCC's Findings of Fact, Conclusions of Law and Decision be made available to the public, but staff did not release them; and yet, Idaho Power, which will collect \$13 million at 9.59% interest on a \$9 million project, was allowed to see the draft and make edits to them last week.
Tidwell added that the BCC cannot modify a Conditional Use Permit once the appeal period has ended.
 - *The BCC assured Tidwell that she could make further comment regarding Idaho Power during the agenda item later in the meeting.*
 - *McCleary added that approving Findings of Fact had always been a process of the BCC and not typically released to the general public before BCC approval.*
- Lili Simpson said she has been transparent in advocating for wildlife for 20 years. She said BLM Shoshone Field Office Manager Codie Martin emailed her that he did not appreciate her tone [in public comment in a previous BCC meeting] and requested to schedule a meeting with her and BLM Recreation Planner John Kurtz to discuss issues and potential solutions to wildlife-human interactions. Simpson said she would not participate in any non-public discussions. Simpson said she has asked Kurtz since 2005 to plan trails with wildlife in mind, yet trails are still in areas that are most disturbing to deer and elk in winter range. Simpson said this is a complex issue of growth, development, and influence on recreation planning and trails to attract residents in the name of economic development and subdivision.
Simpson added that the BLM Travel Plan was rushed through under the previous administration's policy, and should have required an Environmental Impact Statement. Simpson asked the BCC to request in writing that the BLM Shoshone Office meet the following requirement included in the acting Secretary of the Interior's Executive Action on March 3, Secretarial Order 3397 to: Within 90 days of

Order 3397, the Scientific Integrity Officer of each Bureau and Office shall furnish to the Secretary a written report summarizing all actions taken where compliance with S.O. 3369 was determinative in the outcome or decision. The report shall also include the Bureau or Office's plan to reverse or alter, if necessary, each such action to bring the Bureau or Office into compliance with this Order."

▫ *McCleary thanked Simpson for being a relentless advocate for wildlife; and for her work on the Land, Water and Wildlife Levy Advisory Board. McCleary said Blaine County's Administrative Guidelines For Winter Wildlife Closures And Restrictions should help to make a difference for wildlife in the future. The BCC will discuss signage and wildlife measures in the near future.*

- Sarah Michael said she understands that recreation is important, but she shares Simpson's concerns about wildlife, which has always been the highest priority in the County.

COUNTY DEPARTMENT REPORTS

Claims - Gretchen Stinnett

Greenberg moved, seconded by McCleary, to approve claims dated March 3, 2021, as presented. Motion passed unanimously.

Administrative Services - Mandy Pomeroy

- The H.R. Generalist position has been advertised locally and nationally.
- Pomeroy suggested current Administrative Services staff be considered for an additional Administrative Services Supervisor job description. The Administrative Services Supervisor would report to the County Administrator. There would be no additional cost because the Administrative Services Manager is being adjusted down to a Human Resources Generalist. Pomeroy suggested the Supervisor be named the end of March, to allow time for training before Pomeroy takes over as Administrator in mid-April, and the Human Resources Manager and Sustainability Manager come on board about the same time.
 - *The BCC supported the internal Supervisor job description.*
- Pomeroy recognized her Administrative Services team for picking up pieces all year, taking on meetings and helping out other departments that they support.
- Fosbury asked Pomeroy to check to see if employees who were fully vaccinated could wear a badge or pin to make the public aware of areas where there is less risk.

Road and Bridges - Steve Thompson

Blaine County may receive about \$4.5 million in American Rescue Plan (ARP) stimulus money; which may be usable for County infrastructure needs. Money may also be available in 2022 for roads in counties that have federal lands and typically receive Payment In Lieu of Taxes (PILT) and Secure Rural Schools (SRS) funds; and the State may provide some funding. Thompson is preparing a work plan that will improve the County's position to receive grant funds.

RESOLUTION 2021-13 NON-LETHAL CONTROL OF WOLVES Record # **6**

Also present: Idaho Conservation League Associate Josh Johnson; Chris Leman; Wood River Wolf Project Steering Committee members Sarah Michael and Lawrence Schoen; Idaho Fish and Game Magic Valley Regional Supervisor Craig White; IF&G Environmental Staff Biologist Bradley Dawson; IF&G Communications Director Terry Thompson; Lili Simpson; and Lynn Pettingill.

Idaho Fish and Game is making proposals to expand wolf hunting and trapping in the state, including into Blaine County. A large number of Blaine County residents have expressed strong opposition to trapping in Units 48 and 49, in Blaine County. The BCC has drafted a resolution objecting to lethal control of wolves to present to Fish & Game at their upcoming public comment meeting.

Public Comment:

- Larry Schoen, Wood River Wolf Project Steering Committee member, said F&G is pursuing predator management in a non-scientific manner, due to political pressure. He said an overpopulation of elk and ungulates is subject to disease, and guilty of crop damage, and needs natural control
- Sarah Michael, Chair of the Wood River Wolf Project Steering Committee, said a broad coalition of organizations—from the 500-member Sun Valley Board of Realtors to outdoor recreation retailers to Mountain Humane—oppose trapping wolves and extending the hunting season for all reasons. Michael said federal support of wildlife management is critical.
- Lili Simpson said the wolf-trapping proposal originated from organizations other than Idaho Fish & Game. She commended Blaine County's attitude toward wildlife co-existence and non-lethal management.

McCleary moved, seconded by Greenberg, to approve Resolution 2021-13, a resolution of the Blaine County Board of County Commissioners, Blaine County, Idaho, supporting non-lethal control of wolves, the value of wildlife co-existence, and recognizing the Wood River Wolf Project. Motion passed unanimously.

CONTRACTS, GRANTS AND AGREEMENTS

- **Agreement between the City of Ketchum and Blaine County for Sustainability Program Management Cost Sharing** Record # **6680118**

This Agreement for Cost Sharing between Blaine County and the City of Ketchum is to initiate the Sustainability position as a contract-for-services position

Greenberg moved, seconded by McCleary, to approve the Agreement between the City of Ketchum and Blaine County for the Sustainability Program cost-sharing. Motion passed unanimously.

CONSENT CALENDAR

- **Resolution 2021-12 Road and Bridge Budget Adjustment** Record # **6**
- Greenberg moved, seconded by McCleary, to approve the Commissioners’ Consent Calendar as presented. Motion passed unanimously.**

COVID-19 UPDATES

The Commissioners reported on COVID-19-related concerns and committees they were involved in.

- Blaine County is holding steady at high risk level, and will probably decline a little before the busy Summer tourist season hits in July.

BOARD of COUNTY COMMISSIONERS REPORTS

The Commissioners reported on issues and committees they were involved in:

Mike Simpson's Northwest in Transition - Energy, Dams, and Salmon Concept

Also present: Stanley Mayor Stephen Botti; Sarah Michael; and Idaho Conservation League Conservation Associate Josh Johnson.

Idaho Congressman Mike Simpson is currently in the “listening” stage to opinions on if removing dams on the Lower Snake River would improve the declining number of spawning salmon in Idaho. Governor Little, House Speaker Bedke, and some communities are expressing concerns about the effect on the economy. The City of Stanley has passed a resolution in support; and the Idaho Association of Counties has drafted a letter in opposition.

The BCC supports the concept; but Greenberg said Simpson has included economic impacts in his outline, and Blaine County should be well-informed of the impacts before making a statement.

Public Comment:

- Stanley Mayor Steve Botti said construction on the four lower Snake River dams started about 65 years ago, without much thought given to Idaho’s ecosystems and impacts on the salmon runs. The federal government has spent about \$17 billion over the last 20 years that could lead to salmon extinction. Simpson is trying to propose some different economic and ecological ideas as a point of discussion on a path away from endless litigation.
- Sarah Michael said *Spokane Spokesman-Review* and a quote from Idaho Conservation League Executive Director Justin Hayes said Simpson is hitching a ride on the Biden Infrastructure Plan, and wants to hold hearings in May.

Fosbury said the BCC would continue to pay close attention to Simpson’s proposal.

Mountain Rides Grant Support Letter

The BCC will write a letter to support Mountain Rides request for funding for low- and no-emission buses for FY2021. Fosbury will add a sentence referring to Blaine County’s resolution on clean energy.

Salmon-Challis National Forest Cooperating Agency Meeting

Blaine County is a cooperating agency to the Salmon-Challis Forest Plan Revision. McCleary said there have been meetings for several years, without much progress, mostly due to disagreeing opinions at the county, state and national level. Participants at this meeting seemed to agree that they need to focus less on “relationship building”, and more on actual decisions about whether there should be a new plan, or two plans for the two forests; and how recreation, mining and grazing should coincide with wilderness.

BLM WOOD RIVER VALLEY RECREATION AND ACCESS ENVIRONMENTAL ASSESSMENT DECISION

Also present: BLM Shoshone Field Office Manager Codie Martin; and BLM Outdoor Recreation Planner John Kurtz; Susan Giannettino; and Lili Simpson.

This Recreation and Access Decision is the result of a number of very well-attended public meetings, public comments, and a blending of three alternatives. The Wood River Valley Recreation and Access includes construction of 82.6 miles of new and connective trails, to be built starting fall 2021 and over the next few years. All trails will be open to Class 1 e-bikes, mountain bikes, foot and equestrian travel.

One linear trail will go from the top of Townsend Gulch to the top of Colorado Gulch, open to motorized use, including motorcycles. As a result of complaints about noise, the rest of the trails in Lee’s Gulch-

Townsend Gulch will be available to Class 1, 2 and 3 e-bikes, but not motorcycles. There are no designated campsites in Lee's Gulch or Colorado Gulch. Nothing will be done in Lee's Gulch until the road validation lawsuit is settled. The BLM wants to be consistent with city and county ordinances and residential areas and subdivisions.

Kurtz described other new and connecting trails, a couple open to motorized use. There are several new designated dispersed campsites, most of which will be in existing heavily-used areas.

Kurtz said site-specific areas are temporary conditional restriction areas, and can be closed to human-entry use or dog bans during heavy or deep crusted snow, cold temperatures, etc.

Public Comment:

- North Blaine County Fire Commissioner Sarah Michael asked the BLM and Forest Service to coordinate with local fire districts to prohibit open burning during extreme drought and wildfires.

BREAK

Virtual Meeting Specialist Jenny Lovell was present for the afternoon session.

LAND USE and BUILDING SERVICES HEARINGS

- **400 Croy Creek Road; Plat Amendment. Public hearing and consideration of an application by Redgy and Tamara Christensen to amend Lot 1, Bullion Creek Subdivision, by adding a building envelope for a barn on the 24.76-acre property.**

Also present: Blaine County Land Use and Building Services Director Tom Bergin and Deputy Director Kathy Grotto; applicant Redgy Christensen and applicant's representative Bruce Smith.

Grotto read public notice.

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

Disclosures: None.

New materials: None

Applicant's representative Bruce Smith said Lot 1 of Bullion Creek Subdivision is 25 acres. An existing house barely fits on an existing building envelope, so the applicant is requesting to add an accessory building envelope the dimensions of the barn for horses, hay storage, and tractor equipment. Barns are fairly common in this area. The barn is within the wildlife corridor. There is not now and won't be any new perimeter fencing; but the applicant would like to erect corral fencing that is not wildlife-friendly fencing, in order to keep wildlife away from their livestock and away from hay in the barn. The property used to be a second home, but the Christensons live there full time. An Idaho Fish and & Game representative visited the property to discuss the flow of wildlife with Christenson, and suggested the driveway was already there, and no animal tracks, so he felt the barn structure, within the wildlife easement, would help contain their animals and feed without causing any movement problem for wild animals.

Greenberg said a plat note stipulates there can be no construction in the wildlife corridor, and a 3,000sf barn in the wildlife corridor would impede movement. Grotto displayed a collage of the applicant's plat with neighboring plats showing the wildlife migration easement and unbuildable area on Croy Creek Ranch. Grotto said it was quite remarkable that the migration easement flowed across multiple plats that were filed over a period of time.

Public Comment: None

Deliberation:

- Grotto suggested Condition G be amended to, "Fencing for containment of livestock shall be limited to a perimeter of 50x70ft, 5.5ft high, attached, and directly south of the proposed barn."
- Fosbury said the lack of perimeter fencing basically makes the property open range.

Greenberg moved, seconded by McCleary, to approve the application of Redgy and Tamara Christenson to amend Lot 1 Bullion Creek Subdivision, by adding a building envelope for a barn, finding the application complies with the applicable criteria set forth under Title 10 Subdivision Regulations and applicable criteria of Title 9 Zoning Regulations, subject to conditions laid out in the staff report, as amended for Plat Note G on the possible plat note additions. Motion passed unanimously.

LAND USE and BUILDING SERVICES

- **Building Services: Building Permit fee refund request/Permit #2020-012 for Manuel Serrato and Claudia Cayeros**

Building Services Director Tom Bergin said the applicant pulled a building permit and then decided to withdraw the permit. The building permit fee, minus administration fee, is \$4,492.63.

Greenberg moved, seconded by McCleary, to approve the refunding of building permit fee, due to cancelling the permit after it was obtained, for building permit #2020-012 for Manuel Serrato and Claudia Cayeros, in the amount of \$4,492.63. Motion passed unanimously.

- **Draft Recommended Findings & Decision, Minor Plat Amendment: Lots 84, 85 and 86, Government Subdivision; application by Felix Kokeny and Kristie Leigh Chipman-Kokeny**

Also present: Blaine County Land Use and Building Services Director Tom Bergin and Deputy Director Kathy Grotto; Land Use Planner Allison Marks; and applicant's representative Bruce Smith.

There is no public notice for an administrative minor plat amendment, but the process allows a 15-day comment period for all property owners within 300ft of the lot. No comments were received.

No disclosures.

Commission Questions and Comments:

- The applicant wants to combine three small lots which will total .9 acre, which won't make the South Central Public Health District's (SCPHD) minimum one acre. There is a well on the lot; and existing structures that were moved onto the lot. The subdivision was grandfathered years before County ordinance. Staff's suggested Condition of Approval 4 is okay.

Smith reviewed plat notes to be on the final plat, plus a note with any setbacks established by the BCC. The Fire District requires minimum 5ft setbacks.

Greenberg moved, seconded by McCleary, to approve application by Felix Kokany and Kristie Leigh Chipman-Kokeny for a minor plat amendment to remove the interior lot line between Lots 84, 85 and 86, Government Subdivision, finding compliance with applicable notice requirements and applicable Title 9 and Title 10 standards, and to adopt the Findings of Fact and Decision. Motion passed unanimously.

- **Findings of Fact: Picabo Fly-In Subdivision Final Plat**

Greenberg moved, seconded by McCleary, to approve the Findings of Fact, Conclusions of Law and Decision regarding an application of Picabo Livestock Company for final plat approval of the Picabo Fly-In Subdivision. Motion passed unanimously.

- **Findings of Fact: Idaho Power Conditional Use Permit**

Also present: Blaine County Chief Deputy Prosecuting Attorney Tim Graves and Deputy Prosecuting Attorney Amanda Greer; Land Use and Building Services Director Tom Bergin and Planner Allison Marks; Idaho Power Corporate Secretary/Attorney Pat Harrington; Kiki Tidwell and Tidwell's attorney Fritz Haemmerle.

County Attorney Tim Graves said public comment on the Idaho Power Conditional Use Permit was held and is closed. Graves said comments made by Kiki Tidwell during Public Comment in last week's BCC meeting, and again in today's BCC meeting, were made outside the public record, regarding a zoning matter currently being considered by the BCC, and, as such, are considered ex parte communications.

Chairman Fosbury said the BCC's Findings of Fact, Conclusions of Law and Decision on any application are not normally noticed or subject to public comment; but the BCC, at its discretion, would allow Tidwell (and anyone else) to comment on the Findings presented in this meeting, provided the comments are limited in length to three minutes, and limited to the Findings themselves, which were published last week when today's agenda was published.

The BCC occasionally gives DRAFT Findings to an applicant to confirm they are an accurate reflection of what happened in the BCC meeting. These Idaho Power Findings were given to Idaho Power to review for any possible inaccuracies for staff to correct.

McCleary suggested some edits in the Findings for the BCC to consider:

- Revise the Findings to reflect "There would be no public funds spent toward undergrounding of existing distribution and/or transmission lines."
- Revise the Findings to state that public funding may be considered to offset the financial burden on indigent residents, as stated in Condition of Approval 17.

Public Comment:

- Kiki Tidwell asked when it is okay that the public does not get to see a document that is discussed in a public meeting, and is not sent the document in response to a public records request; but another entity is given access to that document in advance. Tidwell said the public has to listen blindly, and muted, while the BCC and applicant make changes and edits on a public document.

Tidwell said the "Decision on Appeal" stated "The [P&Z] Commission adopted a priority-based approach that allowed it to conditionally approve the second application depending upon available funding. This ... provided the Board with a menu of options to consider as it waded through various funding alternatives. The Board, i.e., the Board of Commissioners, appreciates the diligence and creativity used by the Commission in its consideration of the second application. The Commissioners commissioned the prioritization of ... challenging circumstances thereof outside the Commission's reach and could affect the scope of the proposed Conditional Use. Nevertheless, the Commission's review, and, likewise, the Board's review on appeal is limited to considering the facts presented against the applicable Standards of Evaluation within the constraints of this review, a menu-based approach, involving multiple-funding based scenarios, as flexible Conditions of Approval are unlikely to withstand legal scrutiny. Funding issues, preemption, and the need for a redundant transmission line are simply

not zoning considerations. ... It is within that review that the Board must find that the only position of approval that will allow it to make positive Findings at this time is to underground the entire line from the Wood River Substation to the traffic light at the intersection of Elkhorn Road and Highway 75.”

IPC attorney Pat Harrington said IPC suggested technical clarifications to the Findings of Fact to Blaine County staff, and corrected a few inconsistent references and technical references. IPC reviewed the Decision on Appeal extensively in the past and restated its position consistent with some of the BCC’s and staff comments, when, viewed as a whole, it is clear that the Decision on Appeal contemplated further analysis of the power line options based on the feasibility of funding, and the parties between Idaho Power and the County and many other involved parties, overturned every stone to try to find a feasible way to bury the entire line and found it not feasible, but found a very practical, viable alternative in the Owl Rock Road route.

Fosbury acknowledged that County Ordinances provide for time constraints on appeal of a decision, there is no such time constraint on consideration or rehearing that may be filed by the applicant or any other party, as stated in Standards of Evaluation Code 9-32-4E and 9-32-4A2, which describes the process that the BCC is acting under and allows the applicant to request a change of the Conditions. The BCC’s deliberation has been on whether or not that request of the change of conditions would still comply with the Standards of Evaluation for this CUP.

Fosbury concurred with McCleary’s suggestion that the Findings refer to Condition of Approval #1 on when and how the BCC can work with Idaho Power to help indigent resident customers pay the additional cost of the surcharge.

- McCleary suggested additional revisions to Standard 2 and Permit Standards for Evaluation.

McCleary moved, seconded by Greenberg, to approve the Findings of Fact, Conclusions of Law and Decision regarding an application of Idaho Power Company for a Conditional Use Permit to place a 138kV redundant transmission line from the Wood River Substation north of Hailey to the Ketchum Substation on Sun Valley Road, within the City of Sun Valley, as amended in today’s hearing. Motion passed unanimously.

• Proposed Lot Line Adjustment at Blaine County Fairgrounds

Also present: Blaine County Facilities Manager Pat Boyle; Land Use and Building Services Director Tom Bergin; Carey Mayor Randy Patterson, Carey Public Works official Steve Grigsby, and Carey City Clerk/Treasurer Tess Cenarrusa.

Blaine County Facilities Manager Pat Boyle said Steve Grigsby approached him about moving a lot line at the Blaine County Fairgrounds to increase the size of the Carey Park. The lot line was inserted to provide parking for future fairgrounds. Carey is currently irrigating and maintaining the area as a park, with established trees and picnic area. Boyle said moving the lot line about 70ft to the west would leave a parking area that would accommodate about 60 vehicles. There is existing angle parking on the east side of the fairgrounds and more parking on the west side of the fairgrounds.

Land Use and Building Services Director Tom Bergin described the area in detail, including location of a water line to the fairgrounds. Carey agreed to give the County a 10ft easement in case the water line needs maintenance; and will pay for surveying and lot line adjustment. Carey Mayor Randy Patterson said the roadside park invited travelers on the highway to stop and eat lunch in the summer. The BCC and staff and Patterson discussed future parking expansion. The BCC directed staff to present a map showing the proposed lot line shift.

EXECUTIVE SESSION – §74-206 (1)(f) Potential Litigation.

Greenberg moved, seconded by McCleary, to go into Executive Session, pursuant to Idaho Code 74-206 (1)(f), to discuss current and future potential litigations with legal counsel: Tidwell vs. Blaine County; and Blaine County vs. Flying Heart Ranch HOA. Greenberg (aye), McCleary (aye) and Fosbury (aye). Motion carried unanimously.

ADJOURN

At the hour of 4:30 p.m., with no more business before them, the County Commissioners adjourned.

Attest: _____ Approved _____
JoLynn Drage Dick Fosbury
County Clerk Chairman