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**BOARD OF COUNTY COMMISSIONERS
OF BLAINE COUNTY
REGULAR MEETING OF THE MAY 2020 SESSION**

Second Day

Tuesday, May 12, 2020

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; County Chief Deputy Prosecuting Attorney Tim Graves; County Clerk JoLynn Drage; County Administrative Services Manager Mandy Pomeroy; County Land Use Administrator Tom Bergin; County Engineer Jeff Loomis; County Operations Support Specialist Kay Draper; County Grants and Procurement Specialist Lyn Drewien; County Weed Department Manager John Cenarrusa; Chief Deputy Clerk of the District Court Andrea Logan; Blaine County Road and Bridge Manager Steve Thompson; County Information Technology Manager Clay Landon and IT Specialist Ben Parker; Blaine County Assessor Jim Williams and Appraiser Erin Swanson; GIS Manager Sam Young and Senior GIS Analyst Kelly Green; Recording Secretary Sunny Grant; The Hunger Coalition Director of Operations Brooke McKenna; Sheriff Steve Harkins, Chief Deputy Sheriff Will Fruehling and Sheriff's Lieutenant Bryan Carpita; The Crisis Hotline Executive Director Tammy Davis; The Senior Connection Community Relations Manager Ramona Duke; South Central Community Action Partners CEO Ken Robinette; Colby Cameron; Jeff Phillips; and Kiki Tidwell.

Due to the statewide and Blaine County COVID-19 pandemic stay-at-home order, most participants in this meeting were by webconference or teleconference.

Chairman Greenberg called the meeting to order at 9:04 a.m.

PUBLIC COMMENT:

- Kiki Tidwell said there were at least seven new COVID-19 confirmed cases yesterday. She is concerned that the County doesn't have a plan to contact-trace the new cases. Tidwell supports funding for antibody-testing everyone who wants to be tested instead of giving money to organizations requesting funding.
- *Chairman Greenberg said he was in touch with state and local authorities and St. Luke's to get testing in place as soon as possible.*
- *Commissioner McCleary said South Central Public Health District is charged with contact-tracing and has been doing so the entire COVID-19 crisis time.*
- Tidwell said the County has spent over \$250,000 of citizens' money on research and legal fees on Lees Gulch and Flying Heart public access road "situations".
- *Chairman Greenberg said the \$250,000 figure was incorrect. Greenberg said the County held a mediation with Flying Heart, with no resolution. The public present at the mediation encouraged the County to take legal action to try to preserve public access to the river.*

EXECUTIVE SESSION – §74-206 (1)(d) INDIGENT - Consideration of records that are exempt from disclosure as provided in Chapter 1, Title 74, Idaho Code

Also present: Blaine County Services Manager Brooke Baird.

Greenberg moved, seconded by Fosbury, that the BCC convene in Executive Session, pursuant to Idaho Code 74-206 (1)(d), to consider indigent medical records that are exempt from disclosure. Roll call: Fosbury (aye), McCleary (aye), and Greenberg (aye). Motion carried unanimously.

OPEN SESSION RESUMED

INDIGENT CONSIDERATIONS - Board of County Commissioners Action

Greenberg moved, seconded by McCleary, to approve Request 2020-1085-1 in the amount of \$2,600 in rent assistance with no reimbursement. Motion carried unanimously.

SOUTH CENTRAL PUBLIC HEALTH BOARD APPOINTMENT

Greenberg moved, seconded by Fosbury, to approve Gooding County representative Helen Edwards as of July 1, 2020. Motion carried unanimously.

COUNTY DEPARTMENT REPORTS

Claims - Gretchen Stinnett

Fosbury moved, seconded by McCleary, to approve claims dated May 6, as submitted. Motion carried unanimously.

County Administrator - Derek Voss

- Update on Public Utilities Commission.

1 **COVID-19**

2 **Updates**

- 3 • Southern Idaho Solid Waste District Board will have a special meeting this week to discuss the
4 process to resume operations at each of the transfer stations.

5 **Blaine County Internal Policies**

- 6 • Mandy Pomeroy said the latest revision of the Blaine County COVID-19 Leave Policy had been re-
7 sent to department heads and elected officials for additional review and feedback.
8 • Pomeroy explained that the Leave Policy exempted first responders so the Dispatch Center and
9 Emergency Services can maintain minimum staffing levels. Pomeroy said the Policy could be
10 amended at any time, if necessary.
11 • *McCleary suggested the County continue its Administrative Leave policy until the end of May; and*
12 *didn't think some employees should be exempt. Robin Stellers explained that she and Sheriff*
13 *Harkins asked that the Department of Labor language be changed to "may" to ensure they can*
14 *maintain minimum staffing requirements..*
15 • No decision on a cap on vacation time was made. McCleary suggested the BCC revisit it in a month.
16 • Greenberg said everyone must do everything they can to stay safe. Wearing a mask and social
17 separation are major methods of defense.

18 **Fosbury moved, seconded by McCleary, to approve Blaine County COVID-19 Leave Policy,**
19 **amended as discussed to have the terms at the very conclusion of the document, as determined**
20 **by the Board of County Commissioners, and approve the Request for Emergency Paid Sick**
21 **Leave Form 2020 and approve the Request for Expanded Family and Medical Leave Act Form**
22 **2020. Motion carried unanimously.**

23
24 **Paid Administrative Leave**

- 25 • Jim Williams said his department would have to reopen slowly, with team members adjusting to 6ft
26 distancing.
27 • Administrative Leave is now paid at the request and upon approval of department heads, who don't
28 want overcrowding in the office.

29
30 **Janitorial Service**

31 The BCC discussed hiring an extra housekeeping person to constantly clean County office building
32 surfaces during open business hours. The BCC supported adding the extra person through the end of
33 June.

34
35 **Recycle Center**

36 The Recycle Center will start accepting cardboard, aluminum and steel cans.

37
38 **PUBLIC DEFENSE COMMISSION QUARTERLY UPDATE**

39 Also present: Blaine County Chief Public Defender Justin McCarthy; Public Defender Legal Secretary
40 Heidi Southward; and Idaho Public Defense Commission (IPDC) Regional Coordinator Jared Ricks.

41 IPDC sent the County's Annual Review, which included core provisions required by Idaho
42 Administrative Procedures Act (IDAPA) 61-0103, to be included in any public defender contracts. Ricks
43 said he could not find the provision in Blaine County's contracts regarding how long the defense
44 attorney must keep their record and the provision giving the contracting authority the right and authority
45 to inspect material to verify compliance with the contract.

- 46 • Ricks referred to other funding for expert services and extraordinary circumstances.
47 • IPDC is scheduling several educational meetings this year for County Commissioners.
48 • Ricks asked the BCC to review and critique the revised Indigent Defense Financial Assistance form
49 application.

50
51 **CONTRACTS, GRANTS AND AGREEMENTS**

52 **• Request to Apply - FY21 Indigent Defense Financial Assistance**

53 **Fosbury moved, seconded by McCleary, to approve the Request to Apply for FY2021 Indigent**
54 **Defense Financial Assistance in the amount of \$163,000. Motion carried unanimously.**

55
56 **• Resolution 2020-15 and Grant Offer for Airport Improvement Program (AIP) Project No. 3-16-**
57 **0016-049-2020 at Friedman Memorial Airport**

58 **• Resolution 2020-16 and CARES Act Grant Offer for the Purpose of Operations and**
59 **Maintenance Improvements Grant No. 3-16-0016-052-2020 for Friedman Memorial Airport**

60 Also present: Friedman Memorial Airport Manager Chris Pomeroy.

61 Pomeroy said these are both 100% grants, and don't require a local match.

62 **Fosbury moved, seconded by McCleary, to approve Grant Offer for Airport Improvement Project**
63 **3-16-0016-049-2020 at Friedman Memorial Airport in Hailey, Idaho, in the amount of \$1,005,481,**
64 **as submitted; and accompanying Blaine County Resolution 2020-15. Motion carried**
65 **unanimously.**

1 **Fosbury moved, seconded by McCleary, to approve Blaine County Resolution 2020-16, which is**
2 **an offer to accept CARES ACT Grant Offer 3-16-0016-052-2020 for Friedman Memorial Airport.**
3 **Motion carried unanimously.**

4
5 **CARDNO - BIG WOOD RIVER ASSESSMENT - FINAL RIVER ATLAS PRESENTATION**

6 Also present: Blaine County Certified Floodplain Manager Kristine Hilt; County Land Use and Building
7 Services Deputy Director Kathy Grotto; Wood River Land Trust Project Coordinator Ryan Santo; *Idaho*
8 *Mountain Express* reporter Gretel Kauffman; Trout Unlimited Secretary and Wood River Land Trust
9 Board member Nick Miller; Patti Lousen; Jim Phillips; Ken Lagergren; and Carol Cole.

10 Kristine Hilt said the River Atlas is a collaboration of many organizations, individuals, County
11 Commissioners and staff, and a former County engineer who contributed a wealth of history. The Atlas
12 is a history of and current description of the 22 reaches of the Big Wood River from SNRA
13 Headquarters north of Ketchum to Stanton Crossing south of Bellevue. The Atlas includes technical
14 detail presented in an attractive "picture book," with easy-to-understand charts, diagrams, and photos of
15 the river, including information on how to protect, maintain, restore, and enhance the river.
16

17 County GIS is developing their website so people can see a storymap of the river as it relates to their
18 parcel.
19

20 **Public Comment:**

- 21 • Nick Miller encouraged the County and stakeholders to keep the Atlas current.
- 22 • Ryan Santo appreciated the County's support in providing this document's guidance for the river's
23 rehabilitation and habitat restoration.

24
25 **BUDGET DISCUSSION**

26 Also present: County Clerk / Budget Officer JoLynn Drage; Chief Deputy Clerk Leslie Londos; Blaine
27 County Assessor Jim Williams and appraiser Erin Swanson; Blaine County Prosecutor Jim Thomas;
28 County Treasurer John David Davidson; County Land Use Administrator Tom Bergin; Sheriff Steve
29 Harkins; County Road and Bridge Manager Steve Thompson; County Emergency Communications
30 Director Robin Stellers; Ketchum Police Chief Dave Kassner; and Blaine County Extension
31 Administrative Assistant Sarah Busdon.

32 The BCC discussed:

- 33 • The need to take the maximum 3% property tax increase just to meet all statutory obligations.
- 34 • The current COVID-19 crisis is going to have a major effect on the County's budget.
- 35 • Whether there should be step increases, and market and merit increases for team members.
- 36 • The BCC sets priorities; but the budget officer's job is to stay current on future effects on the budget,
37 such as an increase in health benefits premium.
- 38 • Each department must meet statutory requirements, and staff must maintain certifications, so budgets
39 must allow for travel expenses.
- 40 • The County Treasurer deposits funds in the State Pool for the maximum time allowed. Interest
41 earnings are pretty good.
- 42 • Sheriff Harkins is going to request an additional Drivers License clerk.
- 43 • Facilities staff have helped complete major upgrades over the last few years. In FY2021, they would
44 like to remodel Probation and perhaps finish the McBride Building Accessory Dwelling Unit.
- 45 • Public Defender Justin McCarthy would like to hire another full-time employee.

46
47 **Public Comment:**

- 48 • Kiki Tidwell said the County budget to date is overspent by \$300,000 on outside contracts, IT
49 equipment, etc., and there is a range of normally-expected income that isn't going to come in. Tidwell
50 said the County could meet its personnel budget by not giving away a \$3 million piece of property
51 plus \$500,000 in cash to a private entity that had not fulfilled their contract with the County.

52
53 BREAK

54
55 **LAND USE and BUILDING SERVICES HEARINGS**

56 • **180 S Golden Eagle Dr - Big Wood River - Stream Alteration Permit Reconsideration. Public**
57 **hearing on and consideration of a request by Jerry and Angela Tegan for a reconsideration of the**
58 **conditions of approval associated with a recently approved Stream Alteration Permit (SAP) on the Big**
59 **Wood River. Specifically, the applicant is requesting the Board to reconsider the revegetation**
60 **requirements within the required seventy-five foot (75') setback of the Big Wood. This project is located**
61 **at Lot 7 of Golden Eagle Ranch Sub, also known as 180 S. Golden Eagle Rd, and is zoned Planned**
62 **Residential Development (R-2) with areas of Floodplain (FP) and Riparian Setback (R) Overlay Districts.**

63 Also present: County Chief Deputy Prosecuting Attorney Tim Graves; Blaine County Land Use
64 Administrator Tom Bergin; County Certified Floodplain Manager Kristine Hilt; County Certified Building
65 Official Jeff Giese; applicants' attorney Fritz Haemmerle and Environmental Consultant Trent Stumph;
66 Biota Research & Consulting Fluvial Geomorphologist Jeff Phillips; Sean Flynn; Ken Lagergren; Denise
67 J. Ford; Kirk Mason; Rob Head; Bobbi Nichols; Alan Richardson; Kirk Wampler; Wood River Land Trust
68 Deputy Director Amy Trujillo, and Bob Crosby.

69 Hilt read public notice.

1 **McCleary moved, seconded by Fosbury, that notice was adequate. Motion carried unanimously.**

2 **No disclosures.**

3 **New Materials:** Two additional exhibits were emailed to the BCC this morning, and were just given to
4 the applicant team:

- 5 • Exhibit B4 Public comment from neighbor Chris Harding received on May 9; and
- 6 • Exhibit B5 Public comment from neighbor Kirk Mason.

7 Applicants' representatives Fritz Haemmerle and Trent Stumph motion for reconsideration of a decision
8 of the Blaine County Commissioners dated November 19, 2019, specifically, reconsideration of
9 Condition 6, which calls for no mowing or removing items within 75 feet of the riparian setback.

10

11 Haemmerle explained that the riparian zone tapers from 75ft to 35ft to preserve a 25ft barrier from the
12 hardscape. They propose to maintain that area as it has been maintained since before they made this
13 application. Haemmerle described neighboring Golden Eagle lots upstream of the Tegan property,
14 similarly situated as the Tegan lot, and said every one of them has landscaping from the house down to
15 the river.

16

17 Hilt said the properties included as Exhibits to the legal memo were mostly done prior to 1991 and were
18 exempt from the regulations of the riparian setback.

19

20 The BCC discussed details of Trent Stumph's plan.

21

22 **Public Comment:**

- 23 • Trout Unlimited Secretary and Wood River Land Trust Board member Nick Miller said the Cardno
24 study makes it clear that this Reach 11 lacks riparian habitat; and it is important that the County insist
25 on restoration and growth of the riparian habitat. The Cardno study also mentions the impact of riprap
26 and loss of riparian habitat on trout population.
 - 27 • *Trent Stumph said this property was 6-8ft higher than the water level. Their plan is conceptual, and*
28 *they will place the plants where they will do best.*

29 Attorney Graves said the BCC could add a condition that it does not waive its right to enforce a plat
30 note or setback limitations in Blaine County Code.

31

32 **Deliberation:**

- 33 • McCleary felt the overall plan was good.
- 34 • Fosbury felt the BCC made the right decision in setting the Conditions of Approval. He didn't see any
35 hardship with extending the planting plan of riparian grasses proposed by Sawtooth Environmental
36 back to the hardscape to meet the County's 75ft riparian setback standard. The Stream Alteration
37 Permit process specifically talks about ensuring important environmental features of state and local
38 agencies to protect, preserve and enhance fish, wildlife and recreation resources. Fosbury said he
39 thinks Haemmerle is suggesting the BCC change their Zoning Ordinance, which is fine to consider,
40 but will take a while and a bit of discussion.
- 41 • Greenberg said it's important for the Tegans to have enough plantings in the 35ft area to stabilize the
42 bank.

43 **Greenberg moved, seconded by McCleary, to approve the reconsideration request by Jerry and**
44 **Angela Tegan to modify Condition of Approval #6 of the 2019 Stream Alteration Permit on the**
45 **Big Wood River at 180 S. Golden Eagle Drive, Lot 7 of Golden Eagle Subdivision, and to allow a**
46 **25ft setback for mowed-type grasses from the hardscape and to approve the revegetation plan**
47 **as amended for planting to the north of the crosshatched section; and the provision that was**
48 **proposed by legal counsel that the County is not giving up any right to enforcement of the plat**
49 **note for the 75 ft riparian setback. Motion carried unanimously.**

50

- 51 • **430 W. Warm Springs Rd. - Cameron- Appeal of an administrative decision. Public meeting and**
52 **consideration of an appeal by Greg and Dana Jo Cameron of an administrative decision to not issue a**
53 **building permit for a new home in an avalanche hazard zone. Also known as Lot 45A Block 2 of Board's**
54 **Lower Ranch Subdivision, the 1.02-acre property is located almost entirely within the high hazard/red**
55 **avalanche zone. The Administrator issued the decision on September 27 and October 8, 2019. As this is**
56 **an appeal by the land owner, no public comment opportunity will be provided.**

57 Also present: County Chief Deputy Prosecuting Attorney Tim Graves; Blaine County Land Use
58 Administrator Tom Bergin; County Certified Building Official Jeff Giese; County Assessor Jim Williams;
59 applicants Greg and Dana Jo Cameron and their attorney Gary Slette.

60

61 Bergin said administrative decisions don't usually accept public comment, which was noted in the public
62 notice of today's appeal hearing.

63

64

1 The applicants asked Land Use if they could construct a new house on the footprint of a house
2 destroyed by an avalanche in the spring of 2019. In October 2019, Land Use Administrator Bergin
3 issued his opinion that the County would be unable to issue a building permit on this property since the
4 entire lot is in the high avalanche zone, as identified by Art Mears and Chris Wilbur after the 2019
5 avalanche, and residential construction is not permitted in the “red” high avalanche zone. Bergin said
6 this is a rebuild, not a repair or restoration.

7
8 Bergin said his was an advisory opinion since the applicants hadn’t actually applied for a building
9 permit, or offered any mitigation techniques that might change the avalanche hazard on this lot.

10
11 Bergin said residential construction is permitted on lots with a “blue” low avalanche hazard, provided
12 the risk is mitigated. Lots neighboring the Cameron lot have low avalanche areas.

13
14 Jeff Giese showed photos of the property after the April 2019 avalanche slid down a path known as The
15 Avenues. He said less severe avalanches slid down this path in 2018 and in 2020, as well. The 2019
16 avalanche moved the house perhaps 20ft off its foundation. The house is destroyed and uninhabitable.
17 Giese said the Camerons could potentially build a bunker-style house in the high avalanche area, but
18 people outside the bunker would be at high risk; and he didn’t know what impact an avalanche hitting
19 the bunker would have on neighboring structures. Giese didn’t think there was enough land on the lot
20 outside the high avalanche zone to build a house.

21
22 Gary Slette, representing the applicant, said Bergin’s October 2019 opinion was in fact a decision of the
23 Administrator and states that the Camerons can appeal the decision in its reference to Blaine County
24 Code 932-3, Appeals from the Decision of the Administrator. Slette said 927-7 allows restoration of a
25 non-conforming use to its original condition if it was damaged by natural causes, provided that such
26 work is started within six months.

27
28 Slette said Ordinance 77-05 is clear as to the right of an owner to restore the facility to the conditions
29 that existed prior to the time of the event. He said he was surprised by Bergin’s statement that this is
30 not a repair project or restoration project, but a tear-down project.

31
32 Slette said the Camerons had a valid non-conforming use and, according to Code, they have a legally-
33 protected vested right to rebuild their home, which is immunized from retroactive application of a
34 subsequent law. The house was built in the 1970s, prior to enactment of Blaine County Ordinance 77-
35 05, which established the Avalanche Overlay Zones.

36
37 Slette said the Camerons were appealing the Administrator’s decision and were asking the County to
38 allow them to restore their property to what it once was. Slette added that the Camerons were also
39 represented by an attorney regarding constitutional “taking” and due process issues, and have been
40 instructed to not respond to questions.

41
42 Attorney Graves asked Slette several questions about the appeal, including if it was possible a new
43 structure would be struck by an avalanche; and if Blaine County should bear any liability for such
44 possible hazard. Slette responded that he was not a soothsayer, nor was Bergin or Giese; and the
45 County’s attorney should know the answer to the County’s liability if they enforce their law. Slette
46 reiterated that the appellants’ intent was to restore the structure to what it once was, not better or
47 adding something that wasn’t there.

48
49 Giese said a house hit by lightning and burned down would have to be rebuilt to current Building Code
50 standards. He said this house, if rebuilt, would have to meet standards for snow loading and new
51 construction. Mears and Wilbur, who wrote the Avalanche Standard, felt it likely that a similar avalanche
52 could occur in this location within 30 years.

53
54 • Slette said Blaine County Assessor Jim Williams said the property is valued as of January 1 at
55 \$115,000.

- 56 • *Williams responded that the County values property as of January 1 each year. As of January 1,*
57 *2019, the property was assessed at \$462,702. After the avalanche in April, appraiser Tammy*
58 *Robison pro-rated the value of the property as unusable for the rest of the year. If the assessor*
59 *determines the lot to be unbuildable, the value would be decreased to \$1,500 per acre, so the 2020*
60 *value would be something about \$1,535 taxable value.*

61
62 Attorney Graves suggested the BCC take the matter under advisement, to give him the opportunity to
63 review relevant case law and report back to the BCC.

64
65 **Fosbury moved, second McCleary, to take the Cameron appeal under advisement. Motion**
66 **carried unanimously.**

67
68 **LAND USE and BUILDING SERVICES**

69 • **Findings of Fact: Morada Farms Phase 3 Final Plat**

70 **Fosbury moved, seconded by McCleary, to approve Findings of Fact, Conclusions of Law and**

1 **Decision on the application by John Majors and Diane Crist for the final plat of Morada Farms**
2 **Subdivision, Phase 3. Motion carried unanimously.**

3
4 • **P&Z Discussion: Bellevue and Hailey Areas of City Impact - Planning & Zoning Commission**
5 **timeline for recommendation**

6 The BCC initially gave the Planning & Zoning Commission 90 days to make a recommendation, but the
7 P&Z did not meet since early March due to COVID-19. The P&Z requests an extension to August 31 to
8 make a recommendation.

9 **Fosbury moved, seconded by McCleary, to recommend a date for P&Z to make recommendation**
10 **on Bellevue Area of City Impact and Hailey Area of City Impact no later than August 31, 2020, if**
11 **not sooner. Motion carried unanimously.**

12
13 **ADJOURN**

14 **At the hour of 4:03 p.m., with no more business before them, the County Commissioners**
15 **adjourned.**

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