



April 22 & 23, 2024, Emmett, Idaho

Pursuant to a recess taken on April 16<sup>th</sup>, 2024, the Board of Commissioners of Gem County, Idaho, met in regular session this 22<sup>nd</sup> day of April, 2024, at 8:30 a.m.

Present:	Bill Butticci	Chairman
	Kirk Wille	Commissioner
	Mark Rekow	Commissioner
	Laure McCann	Deputy Clerk

Whereupon the following proceedings were had, to-wit:

**April 22, 2024**

**REVIEW AND APPROVAL OF AGENDA:** The Commissioners reviewed the agenda. A motion was made by Commissioner Rekow to approve the agenda for Monday, April 22<sup>nd</sup> and Tuesday, April 23<sup>rd</sup>, 2024 as presented. It was seconded by Commissioner Wille and carried unanimously.

**PROSECUTING ATTORNEY MATTERS:** Deputy Prosecutor Tahja Jensen discussed legal matters including irrigation issues between irrigation districts and developers and how they will be handled in the future. After seeking advice from Keller and Associates she has found them to be unhelpful. Commissioner Butticci asked if there is anyone else we can discuss best practices with. Tahja said the homeless encampment is being tried in the U. S. Supreme Court this week.

**EXECUTIVE SESSION PER IDAHO CODE 74-206(1) (A & B) TO DISCUSS HIRING AND EVALUATION OF A COUNTY EMPLOYEE:** Commissioner Rekow made a motion to go into Executive Session at 9:25 a.m. under Idaho Code 74-206(1) (a & b) to discuss Hiring and Evaluation of a County Employee. It was seconded by Commissioner Wille and carried unanimously. The roll call vote was taken as follows: Commissioner Rekow, aye, Commissioner Wille, aye, Commissioner Butticci, aye. Deputy Clerk Laure McCann was excused.

Regular session reconvened at 9:47 a.m. No action was taken.

**BUDGET ADJUSTMENT PUBLIC HEARING:** While being recorded, Commissioner Butticci read the Notice of Public Hearing. No members of the public were present. Clerk Shelly Tilton reviewed with the Commissioners each item to be adjusted in the Fiscal Year 2024 Budget.

A motion was made by Commissioner Wille to approve Gem County Resolution number 2024-06 as presented. It was seconded by Commissioner Rekow and carried unanimously.

**CONSENT AGENDA:** A. Certificate of Residency for Junior college Tuition for Isabella Ireland B. Professional Services Agreement for Information Technology Services with Corbin Vickery C. Gem County Cooperative Weed Management Area (CWMA) Award of 2024 State General Fund Cost Share Funds.

A motion was made by Commissioner Rekow on the Consent Agenda for Monday, April 22<sup>nd</sup>, 2024 that we approve items A. through C. as presented. It was seconded by Commissioner Wille and carried unanimously.

**PUBLIC WALK-IN:** There were no members of the public present.

**PUBLIC DEFENSE DISCUSSION:** Clerk Shelly Tilton reviewed with the Commissioners issues with the Public Defense Conflict Funding line which has been maxed out and exceeded in the Fiscal Year 2024 budget. Clerk Tilton discussed options for covering the short fall. Deputy Prosecutor Tahja Jensen reviewed issues with finding conflict counsel in Gem County as the state transitions to a State-Wide Public Defense Program. Public Defender Mark Coonts said the Contracted Attorneys for the state will charge approximately \$100 per hour.

**COURTHOUSE PARKING LOT STRIPING QUOTES:** Building and Grounds Supervisor Chuck Shambaugh reviewed bids for the courthouse parking lot striping.

A motion was made by Commissioner Rekow to approve the bid for striping from Curtis Clean Sweep for \$1,977.00. It was seconded by Commissioner Wille and carried unanimously.

**The Commissioners recessed at 12:00 p.m. for lunch to reconvene at 1:30 p.m.**

**KASKEL REZONE PUBLIC HEARING:** While being recorded, the Commissioners held a Public Hearing to review the Kaskel Rezone request. This hearing was held in person and virtually via Zoom. Those present were Development Services Director Jennifer Kharl, the applicant and several members of the public.

Commissioner Butticci read the notice of public hearing. The Rezone Request by Kyle Stratton, on property owned by Robert and Jeanette Kaskel seeks approval for a rezone of their parcel of approximately 19.04 acres from A-2, Rural Transitional Agriculture (5-acre minimum lot size) to R-3, Rural Residential

(2-acre minimum lot size)at 3991 Frozen Dog Road. The Gem County Planning and Zoning Commission recommended approval with conditions. The roll call of Commissioners was taken; Commissioner Rekow, aye, Commissioner Wille, aye Commissioner Butticci, aye. Also present were Development Services Director Jennifer Kharl, Associate Planner Olivia Mocnik, Building Official Matthew Humphrey, Deputy Prosecutor Tahja Jensen, Road and Bridge Supervisor Neal Capps, and Deputy Clerk Laure McCann. Those wishing to testify were sworn in.

There were no conflicts or declarations pertaining to this meeting such as site reviews or other conversations outside of this hearing. Those present were the applicant, 31 members of the public, and 4 members of the public on Zoom.

Development Services Director, Jennifer Kharl asked to have the packet of information added into the record which included the Notice of Hearing, the Rezone Application, Planning & Zoning Recommendation for approval, Staff Report, Draft Development Agreement Conditions, Draft Minutes from the April 8, 2024 Planning & Zoning Commission meeting, Draft Board Findings Order if approved today. There were 16 letters of opposition submitted for the Zoning Commission Hearing and a Petition signed by 29 residents. For today's hearing there were an additional 24 letters submitted by some of the same residents. There were agency letters from Emmett Irrigation District and Black Canyon Irrigation District. Also present were Road and Bridge Supervisor Neal Capps and Development Service Olivia Mocnik.

A motion was made by Commissioner Rekow that we enter the packet of information into the record as described by Ms. Kharl. It was seconded by Commissioner Wille and carried unanimously.

Jennifer reviewed the application for a rezone of approximately 19.04 acres from A-2, Rural Transitional Agriculture (5-acre minimum lot size) to R-3, Rural Residential (2-acre minimum lot size)at 3991 Frozen Dog Road and lies within the County residential area on the 2023 future land use map of the Comprehensive Plan that borders the area of city of impact and supports a rezone of a 2-acre minimum if the 5 findings can be met. This is the first rezone being considered under the new Comp Plan. Jennifer briefly reviewed the process and changes made with the 2023 Comprehensive Plan. Staff recommended approval to the Planning and Zoning Commission with a

consideration for the development agreement including a water quality and quantity study and the 5 findings being met. The Commission concurred with staff's recommendation emphasizing the letters required from the Irrigation districts.

The applicant, Kyle Stratton spoke to address the most prevalent concerns. He stated the rezone was within the 2023 Comprehensive Plan guidelines. He stated that a ground water study has been ordered, and should be required for any rezone. He stated that Southwest District Health would be required to give approval and that has been done. Traffic generated by the additional 8 lots was also a concern because of the substandard road. Neal Capps addressed those concerns saying that the road has been improved and will be more than sufficient for the increase of traffic. Kyle then stated the financial benefits to the County in rebuttal to the accusation that the applicant would be the only one to benefit. Kyle also stated that the property would have its own point of delivery and wouldn't affect neighbors and the property has irrigation shares.

Public testimony in opposition was given. Shell Wiley stated that she is opposed and is feeling threatened by the project and wants to preserve the rural lifestyle. She asked the Commissioners to stop the development. Dennis Wiley is concerned that more housing requires more public services that are not balanced by the increase in taxes. He also wants to preserve the rural lifestyle. Mona Barnes is concerned about the water and having to drill deeper wells. Does anyone follow-up on issues after the development and who pays for the deeper wells? Many of the people present stated that they were opposed to the new Comprehensive Plan and stated that it's not okay for the planning to invade their homes. Barry Barnes stated opposition but refused to talk. Kathy Mazzotta is opposed due to fear of the water table dropping and she doesn't want the increased traffic. Debra Towers owns a small business and is opposed because she wants to preserve the small-town rural feel that is the charm of Emmett. The roads are terrible and dangerous and development negatively affects wild life. Nancy Arbogast is opposed and says that it is in conflict with the comprehensive plan that states that the vision statement preserves the rural character of the county and encourage rural residential and small ranchettes. Two-acre parcels would overcrowd the space, put undue stress on the water table, take away rights of surrounding property owners and devalue the

property. The neighbors should have a voice and they do not want 2-acre parcels. Comp plan implementation is subject to the intent by decision makers who have broad discretion when considering development. Ed Arbogast is opposed and agrees with Nancy Arbogast. Kevin Davis is opposed and concerned about the water table and septic intrusion. He accused the Commissioners of being in "bed" with the realtor. John Wantulok is opposed and agrees with what has been said. Joyce Lee Wolfram is opposed and agrees with what has been said especially with Nancy Arbogast' testimony. She asked the Commissioners to consider the neighbors. The water table and quality are negatively impacted by the number of wells. She wants to keep the rural character of the neighborhood, and is opposed to the negative effects of increased traffic, taxes, stress on schools and de-valuing of their property. Developers are in it for the money and leave behind the problems for neighbors. She asked the Commissioners to reject the application and hopes they aren't receiving any financial gain from development. Dan Littlefield is opposed and agrees. Kevin Pierini agrees with all of the speakers in opposition. He didn't move here for more crowds and will fight against development. Judy Frisbee has cattle and loves Emmett and their lifestyle and is worried about the wells in her area. Neighbors have to deepen their wells and buy filters because of muddy water due to development. She is also concerned about the roads and agrees with other testimony. Susie Wantulok is opposed and doesn't have more to add. Allan Tice is opposed and has seen this before when developers make their money and leave. Just because there is property doesn't mean they need to build on it. Must be careful not to repeat the problems in other states. Gary Thomas stated that he agrees with other testimonies. He and his wife love the semi-rural country atmosphere. Just because it can be split doesn't mean it should be split into such small lots. Very opposed and wants the commissioners to represent the neighbors who have spoken and clearly have demonstrated the opposition to this rezone. Marty Pearce is opposed and wants to keep the neighborhood rural. Rue Frisbee doesn't wish to speak. Heather Dunneski is opposed. She moved from another area to where she is now to avoid development and stated that no one in this area wants to see more houses. Ben Moore is opposed and feels that the neighbors should be listened to when development is considered. He lives in the city and has issues with his irrigation water that continues to

get worse with development. He feels that the financial benefit would be great for the landowner with the 5 acre lots. Linda Davis agrees with Nancy and wants to reiterate the mission statement in the Comprehensive Plan. The developer didn't state anything about what would benefit the community, he just mentioned financial gain. Mary Jean Tice is opposed and agrees with other testimonies. She stated that not much agriculture can happen on 2-acres and it should stay at 5 acres. She asked the Commissioners to consider responsible growth and develop closer to town and not at the outskirts. She stated that the rezone disrespects the neighbor's property rights and creates a precedence for growth that will bite us in the future. She moved here for a beautiful, conservative, quiet life and wants to see it stay that way. Don't make Idaho into another California. Arlena Thomas and Alice Moore didn't wish to speak. Christi Pearce is opposed and agrees with other testimonies. Before she and her husband purchased their property, they sat with Planning and Zoning and were assured that they were in an area that would not be subdivided smaller than 5 acres. Beth Carter on zoom is opposed because she has been negatively affected by development in her area on South Substation and doesn't want to see it happen to the people on Frozen Dog. The infrastructure, wells, septic, bus routes and roads will be adversely affected. Beth asked the Commissioners to stand up and oppose the development and listen to the neighbors. Other attendees on Zoom did not wish to speak. Heidi Morris is opposed and asked the Commissioners to consider the worst-case scenario if the property is not developed. She states there are bad affects to water, septic, and pollution and we should be better stewards of the earth. Neal Shippy gave neutral testimony and pointed out that pipelines will have to be redone through the property whether the property is subdivided or not.

Jennifer Kharl confirmed that the current map and the future land use map that states what the zoning could be is posted on the website.

Applicant rebuttal from Kyle Stratton stated that he is not a developer that is strictly concerned about money, he has lived in Emmett for 30 years and is also concerned about Gem County. Road and Bridge Supervisor Neal Capps spoke to the conditions of the roads. This section of Frozen Dog road from Plaza to the canal was the first phase in a larger project. It is 28 feet in width, has a bike lane and is one of the better roads in Gem

County. The first phase of roads is built to standards and roads are adequate to serve this rezoned area. Commissioner Rekow asked Neal about the section of road and if he had any concerns about safety. Neal had no concerns about that specific area of road. Commissioner Wille confirmed with Jennifer that the area in question was removed from the area of city impact by the new comprehensive plan. During additional testimony, Mona Barnes disagreed with the safety on Frozen Dog Road and feels that the hill is a blind spot. Jeannie Tice said the paving is good on that section of road but the bike lane is too narrow. Roads are not taken care of and there are many pot holes that should be addressed before more development. Joyce Wolfram stated that speed is also an issue and there are no speed limit signs past the railroad track and there is no sheriff presence.

A motion was made by Commissioner Rekow to close the public hearing. It was seconded by Commissioner Wille and carried unanimously.

Commissioner Butticci stated to all present that property owners have rights also and the Commissioners will take the statements made today under advisement and bring the matter back for further deliberation and a decision on Tuesday, May 14, 2024 at 1:30 p.m.

A motion was made by Commissioner Wille to continue this matter to deliberate on May 14<sup>th</sup> at 1:30. It was seconded by Commissioner Rekow and carried unanimously.

**TRAVEL EXPENSES FOR WATER TRUCK LOCATED IN DENVER:** Road Department Supervisor Neal Capps spoke with the company in Denver Colorado regarding the completion of a water truck. Neal plans to make the trip to Denver to give his final inspection. He plans to schedule the trip sometime between May 7<sup>th</sup> & 9<sup>th</sup>. The funds have been approved in the budget, but he wants approval to use his own bank card and be reimbursed for the trip down and back with an overnight stay. Travel will range in cost from five to eight hundred dollars.

A motion was made by Commissioner Wille to approve the Road and Bridge Department to travel to inspect the water truck and to use his credit card and be reimbursed by the truck repair line. It was seconded by Commissioner Rekow and carried unanimously.

**SURPLUS ROAD DEPARTMENT OIL TANK TRAILER DDP2 1000TT SERIAL NUMBER 10746 AND AUTHORIZE SALE OF TRAILER TO THE CITY OF SAINT ANTHONY:** Road and Bridge Supervisor Neal Capps presented to the

Commissioners the request to surplus a 1,000 gallon emulsion oil tanker trailer that is not being used. He wants to surplus the trailer and follow state statute for the authorization of sale for \$25,000, to use the funds for other equipment needs.

A motion was made by Commissioner Wille to surplus the Road and Bridge Departments oil tank trailer and follow state statute for the authorization of sale. It was seconded by Commissioner Rekow and carried unanimously.

**REVIEW AND APPROVAL OF MINUTES:** The Commissioners reviewed the minutes presented.

A motion was made by Commissioner Wille to approve the minutes for April 8<sup>th</sup>, 9<sup>th</sup>, 15<sup>th</sup> and 16<sup>th</sup>, 2024 as amended. It was seconded by Commissioner Rekow and carried unanimously.

**EXPENSE CLAIMS APPROVAL:** The claims presented were reviewed.

A motion was made by Commissioner Rekow to approve the claims as presented and as initialed on the individual claim forms. It was seconded by Commissioner Wille and carried unanimously.

**ADMINISTRATIVE TIME:** The Commissioners worked on administrative matters.

**APRIL 23, 2024**

**ADMINISTRATIVE TIME:** The Commissioners worked on administrative matters.

**The Board recessed at 5:00 p.m. to 8:30 a.m. on May 6, 2024.**

Approved: \_\_\_\_\_  
Chairman

Attest: \_\_\_\_\_  
Clerk