



November 6 & 7, 2023, Emmett, Idaho

Pursuant to a recess taken on October 24, 2023, the Board of Commissioners of Gem County, Idaho, met in regular session this 6th day of November, 2023, 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:

November 6, 2023

REVIEW AND APPROVAL OF AGENDA: The Commissioners reviewed the agenda. A motion was made by Commissioner Rekow to approve the agenda for Monday, November 6th and Tuesday, November 7th, 2023 as presented. It was seconded by Commissioner Wille and carried unanimously.

PROSECUTING ATTORNEY MATTERS: Deputy Prosecutor Tahja Jensen met with the Commissioners to discuss legal matters which included the Cherry Heights request for reconsideration scheduled for tomorrow, November 8th 2023, the Mill that has been fully annexed into the city, the Island Complex camping ordinance, the Riteway Builders contract and the terms of signing, Larry Shippy and the Weed Department's Copier contract, the Hospital board's quarterly meeting, the Board of Guardian's new ward. Commissioner Rekow discussed a complaint that the Commissioners received from Amir Talai on Penny Lane regarding the lighting from the Industrial Park that shines directly at his home. Tahja advised that he be directed to Development Services to resolve the matter, because it is a possible Gem County Code violation.

TAX DEED PUBLIC HEARING: After being sworn in, and with no members of the public present, Gem County Treasurer Megan Keene presented testimony regarding a Tax Deed and requested that the Commissioners confirm that she has met the requirements of Idaho Code 63-1005 and to direct her to issue and record a Tax Deed for the subject parcel in favor of the county. The following property has unpaid taxes for the 2019 tax year; Parcel No: RPE2350A04001A at 1108 E. Park Street owned by Bonnie C. Lloyd Estate. The Affidavit of Compliance with the County was filed and recorded on October 27, 2023 for the subject property.

Treasurer Keene reviewed the Affidavit of Compliance and stated that a family member who lives out of state has been contacted, and after inquiring about the amount due, has made no further contact and is not present today. Commissioner Butticci asked to have the record show that there were no members of the public present and no one was on the phone. Commissioner Wille asked about a second property listed on exhibit B of the affidavit on Hayes Avenue. Treasurer Keene confirmed that the Hayes parcel has been satisfied. Of the 2 vested parties of the interest listed on the litigation guarantee, one was deceased and the other unreachable. Both certified copies that were sent came back undeliverable. Treasurer Keene reiterated that several attempts have been made to reach the family member, including the notice of today's hearing, and no response was received. Commissioner Wille asked about a right of redemption and Deputy Prosecuting Attorney Tahja Jensen said that was only available for the 2 vested parties and not for the granddaughter. The contents of the home and a vehicle remain on the property. Commissioner Butticci stated that if the Tax Deed is granted the county has 14 months to decide to auction off the property or retain it for County use. After no further questions, Treasurer Keene asked for a motion as stated above.

A motion was made by Commissioner Rekow that Treasurer Keene has met the requirements of Idaho Code 63-1005 and that she also issue and record a tax deed in favor of Gem County on the Parcel RPE2350A04001A. It was seconded by Commissioner Wille and carried unanimously.

At that time Treasurer Keene asked the Commissioners to refer to Idaho Codes 63-1005, for the Tax Deed Process, 63-1006 for the hearing and issuance of the deed and 63-1007 for the redemption rights.

CONSENT AGENDA: A. Certificate of Residency for Junior College Tuition for Marc Payne, Michael Dear and Jason Alvarado B. Request for Fee and/or Tax Cancellation for various Assessor's Parcels for Homeowners Exemptions received after the 2023 Board of Equalization C. Request for Fee and/or Tax Cancellation for Various 2023 Missed or Occupancy Parcels Homeowner's Exemption Adjustments D. Request for Fee and/or Tax Cancellation for various Assessor's Parcels that had Special Fees Added in Error E. Revised Digital Data Forensics Statement of work from Sylint Cyber Security F. Idaho Counties Risk Management Program (ICRMP) Joint Powers Subscriber Agreement G. Gem County Sports Complex Agreement with Gem County Recreation District for Fiscal Year 2024 H. Operation in Funds Summary for 7/1/23-9/30/23 I. Cerium Networks Block of Hours for Information Technology (IT) Service/Support J. Riteway Builders Change Orders #1, #2, #3

and #4 for the Weed Department Building Addition K. Gem Plan District 3 Board of Trustees Nomination form L. Gem County Resolution 2023-18 Destruction of Clerk's Records M. License and Indemnity Agreement with Albertsons for Stuff the Ambulance Food Drive N. Jordan Farms Minor Subdivision Plat.

A motion was made by Commissioner Rekow to approve the Consent Agenda for Monday, November 6th, 2023 item A. through N. as presented. It was seconded by Commissioner Wille and carried unanimously.

VACATION CARRYOVER REQUEST FOR EXTENSION OFFICE EMPLOYEE: A request for vacation carryover was submitted to the Commissioners for 55.49 total hours due to unexpected work that didn't allow for vacation time before the end of the 2022-2023 fiscal year. The Extension employee discussed plans to use the time this month.

A motion was made by Commissioner Wille to approve the vacation carryover request as submitted. It was seconded by Commissioner Rekow and carried unanimously.

PUBLIC WALK-IN: Wendell Ayers came in to discuss the traffic on Plaza Road and the pavement conditions. His concern is that heavy gravel truck traffic has really increased and the road is not meant to withstand that traffic. He asked if the traffic can be restricted or redirected off of Plaza Road. Commissioner Butticci said that we have had other members of the public express the same concerns and the county is working with Idaho Transportation Department (ITD) to address the issue. There are also concerns about the Plaza Road Bridge and how well it will hold. David E. Crawford asked about the campground on Highway 16 and asked why it was closed and what is planned for it in the future. Commissioner Butticci said that it was difficult to manage due to indigents, drugs, raw sewage and abandoned trailers and there is no eviction process. For now, the park will be used for additional fairground parking, with other options being considered in the future. Mr. Crawford is concerned for the homeless population in the winter months and asked what can be done. Commissioner Butticci stated that it is a continuous issue for the county without a solution due to funding. He directed him to members of the community that have more experience with indigent services.

ROAD DEPARTMENT UPDATE: Road and Bridge Supervisor Neal Capps updated the Commissioners on current projects which included; the John's Street closure and opening a temporary lane for the election, road concerns due to increase large truck traffic on Highway 52 and 16 and Letha complaints about compression brakes.

Neal discussed the Idaho Association of Roads conference that he attended and said it was very informative. It focused on salaries and road maintenance. With the new growth in Idaho, small counties are having trouble maintaining the roads with small departments, can't keep up. Neal also stated that the new truck that was purchased has been pushed out until May, the Road and Bridge roof repair is beginning and will take about 1 week, and the T14 Kenworth is down with water in the oil and it may require a new engine. Other work includes, winter prep and clearing culverts. The ITD public hearing will be December 6th at the High school.

EXECUTIVE SESSION PER IDAHO CODE 74-206(1) (D) INDIGENT

APPLICATION CASE 24-005: Commissioner Rekow made a motion to go into Executive Session at 11:43 a.m. under Idaho Code 74-206(1)(d) Indigent Matters. 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.

Regular session reconvened at 11:45 a.m.

A motion was made by Commissioner Rekow to approve County Case #24-005 up to \$1,000 for cremation. It was seconded by Commissioner Wille and carried unanimously.

REVIEW AND APPROVAL OF MINUTES: The Commissioners reviewed the Minutes for Monday, October 23rd and Tuesday, October 24th 2023.

A motion was made by Commissioner Wille to approve the minutes for Monday, October 23rd and Tuesday, October 24th 2023, as amended. It was seconded by Commissioner Rekow and carried unanimously.

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

WALK THROUGH OF WEED DEPARTMENT BUILDING ADDITION WITH RITEWAY BUILDERS: The Commissioners walked through the new Weed Department Building addition.

ADMINISTRATIVE TIME: The Commissioners worked on administrative matters.

The Board recessed at 5:00 p.m. to 8:30 a.m. on November 7th, 2023.

November 7, 2023

CHERRY HEIGHTS PHASE 1 AND 2 REQUEST FOR RECONSIDERATION

PUBLIC HEARING: While being recorded, the Commissioners held a public hearing to review the Cherry Heights Phase 1 and 2 Request for Reconsideration. This hearing was held in person and virtually via Zoom. The roll call of Commissioners was taken; Commissioner Rekow, aye, Commissioner Wille, aye Commissioner Butticci, aye. Members of the public 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 Development Services Director Jennifer Kharrl, Development Services Associate Planner Olivia Mocnik, Deputy Prosecuting Attorney Tahja Jensen, Road and Bridge Supervisor Neal Capps, Deputy Clerk Laure McCann, 4 representatives for the applicant, and 6 members of the public. Attendance on Zoom call included the project engingeer and 2 members of the public. Those wishing to testify were sworn in.

Development Services Director, Jennifer Kharrl asked to have the packet of information added into the record which included the original packet from the rezone hearing in July, a written decision for the denial, the work session documents, and the request for reconsideration from the applicant.

A motion was made by Commissioner Rekow to enter the packet of information into the record as described by Ms. Kharrl from Development Services. It was seconded by Commissioner Wille and carried unanimously.

Jennifer reviewed the application of the Cherry Heights Phase 1 and 2 Request for Reconsideration on the rezone denial for the property at 3700 Wills Road. The applicant is asking the Commissioners to reconsider the denial and approve the rezone to allow for 1.5 acre lots instead of 1 acre lots that was asked for previously. This application is still under the old Gem County Comp plan which will support a 1 acre minimum lot size if the five findings from Gem county code can be met for rezone. The initial rezone was denied based on findings 2 and 5. If the board chooses to approve the rezone today, findings 2 and 5 must be met with a development agreement including the same conditions of approval as the initial rezone request, with the exception of allowing for 1.6 acre lots.

Commissioner Butticci asked to let the record show that the Phase 1 reconsideration has been withdrawn and that a workshop

was held with the applicant to address the reasons for additional requirements.

Josh Leonard, Stephanie Hopkins spoke on behalf of the applicant. Josh stated his appreciation of the previous workshop and the opportunity to be heard today. He briefly addressed the changes they have made to the original rezone request. The engineers studied the site plan and reduced the number of lots from 19 to 14 losing 5 lots and overall making it a better more cohesive design. The new site plan increased the average lot size to 1.6 acres instead of 1.18 acres. He asked the Commissioners to consider the proposed layout not as a specific plan but as a conceptual plan. Mr. Leonard and Ms. Hopkins presented a brief photo demonstration showing the new proposed site plan and the changes made from the original Phase 2. They demonstrated the reconfiguration showing fewer lots, larger lot sizes, as well as better drainage and flow of subdivision. Mr. Leonard briefly discussed the \$115,000 contribution by the developer to mitigate the costs of road construction. Engineer Joe Pachner stated the design was built to maximize drainage.

Donna Martin spoke in opposition to the rezone. She wants to maintain the rural atmosphere by keeping a minimum 5 acre lot size. Ken Williamson is still concerned about adequate water for the current residents and additional wells that will go in. He is concerned about the up keep of septic systems, seepage and drainage. He feels that the chemicals in the ground should be addressed before future development begins. He is concerned that when the roads are widened, current fences will be destroyed the side roads will be negatively affected. He wants to know how he can get a reconsideration on the original 70 acres. Natasha Palmer agreed with Ken Williamson. She wants to see a minimum lot size of 5 acres. The widening of Wills Road will affect the current property and tear down her stone wall that have been there for 100 years. Cindy Dixon is opposed because she hopes to stay rural and says that the 16 acres is the only thing that separates their rural property from the larger city subdivision.

Mike Darling says the lot size changes are not enough they should stay at 5 acres. Phase 1 should never have been approved because it is not responsible development. Why do we have zoning if it can be changed so readily? The developer should work within the original zoning. Peter Dill the changes made

have not solved the problems that led to the original denial. The same issues are still present with the new site plan. The contribution towards roads is just a drop in the bucket and the responsibility of costs will still be with Gem County. He asked that the Commissioners stay with the denial that was made for right reasons.

Road and Bridge Supervisor Neal Capps addressed the road concerns and the cost of construction. The Wills road project under the current impact fees will be \$1.5 million. Neal stated that the counties portion is \$375,000, the current impact fee collected of approximately \$373,000, the applicants contribution of \$115,000 added to the the impact fees in reserve at the county the project would be covered. Neal stated that the contribution amount offered from the applicant was fair.

Jennifer Kharrl stated that the 2007 Comprehensive Plan in place when this subdivision was proposed had the area set aside as a 1 acre minimum lot size. The new Comp Plan has a 5 acre minimum size in this area, so there will be no further 1 acre development in this area. Ms. Hopkins asked Joe Pachner to address Mr. Williamson's concerns on the water and septic plan. Joe Pachner stated that the septic systems have to provide the layout and have it approved prior to building to ensure there is no leaching. Storm drainage requirements have to meet a 100 year storm capacity. They rely on water resources for the analysis of aquifers and will rely on their recommendations. The chemical detail analysis is difficult to obtain prior to lot approval but they will have to prove that the chemical levels have disapated and levels are safe for future residents. Josh Leonard believes that they have satisfied the Commissioners concerns for septic and water at this time and will have to meet further standards before proceeding. He feels that the number of wells added are minimal and that the \$115,000 contribution on top of impact fees generated by the project is significant. The reconfiguration of Phase 2 will meet the county requirements. Commissioner Wille asked Neal about the burden placed on our roads. Neal felt that the improvements to Wills Road will help with connectivity and benefit the community. Commissioner Rekow is concerned about old freezeout being used and not equipped for that. Neal stated that it is being addressed with Idaho Transportation to find a better detour route. It is part of the long term plan being addressed by Keller and Associates. Commissionr Wille asked about the water quantity study and wants

information on water levels for new wells and how it will affect current wells that are shallow. Jennifer Kharri said the applicant has already addressed the water, septic and chemical concerns in the development agreement and conditions of approval. There were no further concerns from the Commissioners.

The hearing was closed at 2:23pm.

A motion was made by Commissioner Rekow to close the hearing. It was seconded by Commissioner Wille and carried unanimously. Commissioner Butticci feels that they have met the requirements and satisfied previous concerns. Commissioner Wille agrees and stated further that growth management is difficult. Commissioner Rekow appreciated the work session and the concessions made by the developer, but is still disappointed that we didn't meet the 2 acre minimum ask. Commissioner Butticci says they have met the requirements under the old comp plan that they applied under. He has the same concerns, but the requirements have been met.

A motion was made by Commissioner Wille to repeal the previous denial and approve the rezone request with the development agreement and direct staff to verify the findings of fact and conclusions of law consistent with our discussion today. It was seconded by Commissioner Butticci and carried unanimously.

ADMINISTRATIVE TIME: The Commissioners worked on administrative matters.

The Board recessed at 5:00 p.m. to 8:30 a.m. November 13, 2023.

Approved: _____
Chairman

Attest: _____
Clerk