



November 16 & 17, 2020, Emmett, Idaho

Pursuant to a recess taken on November 9, 2020, the Board of Commissioners of Gem County, Idaho, met in regular session this 16th day of November 2020, at 8:30 a.m.

Present:	Bryan Elliott	Chairman
	Mark Rekow	Commissioner
	Bill Butticci	Commissioner
	Shelly Tilton	Clerk

Whereupon the following proceedings were had, to-wit:

The Pledge of Allegiance was said.

**November 16, 2020**

**REVIEW AND APPROVAL OF AGENDA:** The Commissioners reviewed the agenda. A motion was not made.

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

**CONNELLY MINOR SUBDIVISION:** Development Services Director Jennifer Kharrl met with the Commissioners to review the Connelly Minor Subdivision. The applicant, Sawtooth Land Surveying, LLC, on property owned by Jami Sue Connelly, has applied for a minor subdivision to create four (4), single-family lots on approximately 5.04 +/- acres (comprised of two buildable parcels) located in the R-2, Residential Transitional zone. She advised that there were no letters of concern submitted. She said the property was rezoned back in 2007 along with some neighboring properties prior to being moved into the city area of impact. Commissioner Butticci stated the application is pretty straight forward and is within the area of city impact. Commissioner Rekow discussed access to the property and lot size. It was clarified that one lot size is 1.183 acres and the others are 1.182.

A motion was made by Commissioner Butticci to approve the Connelly Subdivision as presented off Waterwheel Road and accept the conditions in Exhibit B and C. It was seconded by Commissioner Elliott and carried unanimously.

**GEM ISLAND MAINTENANCE MEMORANDUM OF UNDERSTANDING WITH THE RECREATION DISTRICT:**

Members of the Gem County Recreation District met with the Commissioners to discuss the MOU for maintenance for the island. Board Chairman Wayne Rexford said the board wondered about the requiring of liability insurance and following Southwest District Health guidelines, which had been added to the MOU. Board member Brooke White wondered why the change is being made. Deputy Prosecutor Tahja Jensen discussed the need for insurance and health district guidelines to be followed for events held on the island. She explained the process the county has adopted for events held within the county which has become more formal and now includes liability insurance certification and health district guidelines. The Recreation District board is concerned about stepping into the county's event process. Processes were discussed. Tahja will provide the event application for the Recreation District to review. The district will approve and sign the previous version of the MOU until the new version is worked out.

**COVID DISCUSSION:** Disaster Services Director Laurie Boston discussed increasing COVID numbers for the community. She said the hospital has a 24% positivity rate over the last 30 days. She said the trend is alarming with numbers climbing dramatically. She discussed COVID fatigue and patient capacity at hospitals in the valley. She discussed the Governor's modified stage 2 order. She discussed limits the library has put in place. Deputy Prosecutor Tahja Jensen asked Laurie about purchasing masks, Laurie said she is trying to get gloves right now due to pricing. Stacie Carr with Valor Health discussed positivity rates and hospital capacity. She said they have an increased occurrence of staff illness and positive testing. She said their PSA issued last week was that although death may not occur as a result of COVID the hospital is not able to maintain the same level of care with the increase in cases. Laurie stated that Southwest District Health is taking the hospital's information into consideration when making their decisions.

**CARES ACT FUNDING:** Clerk Tilton has received information for a request for pre-authorization for IT equipment for the Commissioner's office and conference room. The request will be submitted to the state this week.

**PROSECUTING ATTORNEY MATTERS:** Deputy Prosecuting Attorney discussed Tahja Jensen discussed general updates on legal matters.

**CONSENT AGENDA:** The consent agenda included A. Long Rezone

Findings, Conditions, Conclusions and Order, B. Gem County Ordinance 2020-05 Long Rezone, C. Elk View Estates Findings, Conditions, Conclusion and Order and D. Certificate of Residency for Chelsie Wright and Charlene Russell for Junior College Tuition.

A motion was made by Commissioner Rekow to approve the consent agenda items A - D as presented. It was seconded by Commissioner Butticci and carried unanimously.

**EAST 12<sup>TH</sup> STREET TRAFFIC STUDY:** Road Supervisor Neal Capps met with the Commissioners to review a traffic study that was done on East 12<sup>th</sup> Street and impacts of the large new subdivisions approved in that area. Neal discussed shoulder widening and suggestions that have been made for a 4 way stop at that intersection. Commissioner Rekow feels that may dress it up and help pedestrians but he sees it creating a problem with the volume of traffic. Neal discussed the traffic count stating that the engineering company that did the study claims the roads can handle the volume. Neal confirmed that developers will pay the cost of what needs to be done.

**MINUTES:** The minutes from November 2 and November 9, 2020 were reviewed. A motion was made by Commissioner Rekow to approve the minutes for November 2, 2020 as presented. It was seconded by Commissioner Butticci and carried unanimously.

A motion was made by Commissioner Rekow to approve the minutes for November 9, 2020 as amended. It was seconded by Commissioner Butticci and carried unanimously.

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

**FLOOD DAMAGE PREVENTION ORDINANCE AMENDMENT TO SECTION 13-5-1.R PUBLIC HEARING:** While being recorded, a public hearing was held for a rezone request. Due to social distancing this meeting was held virtually via Join Me. Commissioner Elliott read the Notice of Public Hearing for the virtual meeting for the ordinance amendment. Those present were Development Services Director Jennifer Kharrl, Associate Planner Michelle Baron and Deputy Prosecuting Attorney Tahja Jensen.

There were no indications of conflict from the Commissioners, nor were there any declarations pertaining to this meeting such as site reviews or conversations outside of this hearing.

Development Services Director Jennifer Kharrl presented the staff summary stating it is an ordinance amendment request by a private citizen, she discussed the request that pertains to fill

in the floodway and floodplain. She said the ordinance adopted previously is more restrictive than the one that was in place prior. She feels the ordinance is backwards as far as where fill is allowed; however, it is the same as what the state ordinance has. The state would want to see a prohibition of fill in the floodway. Jennifer said the state said the county would lose CRS points but there could be some other things that could be done to make up for the points in order to retain the current CRS rating that allows citizens a discount when obtaining flood insurance. It is not a requirement to have the CRS rating Below 10, it allows for the discount to citizens. Jennifer discussed other items in the ordinance protecting the floodway, stating that some items within the ordinance are in conflict with each other. It was requested to add the packet of information that was submitted into the record which includes the application, letters including one from Sawtooth Law and staff.

A motion was made by Commissioner Rekow to enter the information into the record. It was seconded by Commissioner Butticci and carried unanimously.

Commissioner Elliott asked for testimony from those in favor of the rezone. Applicant Stephanie Dwyer stated they are contracted to purchase property in the floodplain. She would like to have the ordinance changed to allow fill. She said the current code disallows for enhancement on properties within the floodplain. She discussed her and her family's experience in building within the floodplain. She said their goal is to build their homes on the property they are looking to purchase.

Kathy Smith spoke in favor of the amendment. Kathy discussed the hearing that was held at the time the current ordinance was put in place. She said the current ordinance is very restrictive and stated she believes the amendment allows property rights and meets the criteria FEMA requires. She asked for the Commissioner's support and approval of the amendment.

Neither Herb Huskason, Paul Hudson or two new callers who were not identified spoke.

Andy Waldera with Sawtooth Law Office spoke in favor of the amendment. He had submitted the letter that is in the packet and to speak on behalf of the Huskason's who are the owners of the property. Andy discussed section of the county code that provide confusion and inconsistencies. He said the county should do something whether it is cleaning up the code and correcting the inconsistencies or approving an amendment. He said the allowance of a discount provides reasoning as to why the CRS rating needs to be where it is. He talked about the state's ordinance being a model for counties. He assumes the county adopted the model ordinance mostly as it was which appears to have lead to the

inconsistency in the county's code. Andy discussed the floodway which is more regulated and nationally would have more restriction. He also further stated that the floodplain is in the larger area that is what they are talking about today. He said that the use of fill is more consistent with federal regulations but stated that if the county decides to leave the ordinance as it is he suggested explanations as to the reasons for the ordinance as it is. He recommended including the ordinance in the Comprehensive Plan.

Commissioner Elliott discussed Priority Growth Area 1 stating that some areas were included in that area that were not particularly well thought out. He wondered about water flow if the water has nowhere to go causing it to rise. He would like to see that addressed prior to making major changes.

Andy discussed the way that communities grow stating that waterfront can be safely developed. He said that opportunity can be lost by overly restrictive regulation.

Commissioner Rekow discussed the concerns regarding the potential for damage or loss of property along the river. He spoke about challenges with restrictions and access issues to the river in regards to cleanup. He said it has become more difficult and talked about a house where the river re-routed and washed away the dirt underneath a portion of the house.

No one spoke neutrally or opposed to the ordinance amendment.

Commissioner Elliott discussed the letter from the state and wondered what can be done to retain the status for the CRS rating. He said it affects a lot of people, he remembers it being a large consideration in approval of the previous ordinance. Jennifer Kharl stated that the NFIP is required and the county is in compliance with the NFIP; the CRS rating is optional as a way to help citizens with flood insurance. Jennifer said there are currently 14 properties that benefit from the CRS rating. She said there may be other things the county can do to retain the CRS rating.

Jennifer suggested keeping the public hearing open if the Commissioners are looking to provide direction to staff and continue the hearing for further discussion. Deputy Prosecutor Tahja Jensen discussed the process of continuing the hearing. She also mentioned that at the time of the previous ordinance adoption the county did not have a certified floodplain administrator and at this point the county has two.

The Commissioners provided direction for Jennifer as to what they would like to have for the continued hearing. They would like to have text as to what is being proposed along with the reasoning for it. Andy reviewed language that stated that if

it were removed, the existing conflicts will no longer be conflicts. Tahja stated that another way to clean it up rather than removal of the wording would be to clarify it.

Commissioners agreed that all conditions were met and there were no further questions. The Commissioners would also like more information from the state regarding the way the state ordinance is written.

Jennifer will draft the ordinance as proposed and a synopsis of it. Dates to continue the hearing were discussed. Jennifer will contact Maureen for further information and to see if she could attend the next hearing.

A motion was made by Commissioner Rekow to continue this until December 7<sup>th</sup> in the afternoon. It was seconded by Commissioner Butticci and carried unanimously.

**The Board recessed at 2:50 p.m. to 8:30 a.m. on November 23, 2020.**

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

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