



December 7, 2020, Emmett, Idaho

Pursuant to a recess taken on December 1, 2020, the Board of Commissioners of Gem County, Idaho, met in regular session this 7th day of December 2020, at 8:30 a.m.

Present:	Bryan Elliott	Chairman
	Mark Rekow	Commissioner
	Sarah Story	Deputy Clerk

Whereupon the following proceedings were had, to-wit:

The Pledge of Allegiance was said.

December 7, 2020

REVIEW AND APPROVAL OF AGENDA: The Commissioners reviewed the agenda. A motion was made by Commissioner Rekow to approve the agenda as presented. It was seconded by Commissioner Elliott and carried unanimously.

ADMINISTRATIVE TIME: The Commissioners worked on administrative matters.

SOUTHWEST DISTRICT HEALTH PROPERTY DEVELOPMENT DISCUSSION: Southwest District Health Senior Environmental Health Specialist Brigitta Gruenberg reviewed a presentation on ground water and septic systems. Items that she talked about were individual/subsurface sewage disposal rules and a Technical Guidance Manual and Standard Operating Procedures (SOP's). She spoke about how the standard sewage disposal system works, drain fields, soils, required separation distances, ground water, ground water concerns and ground water levels. She also discussed how test holes are completed, ground water monitoring, how temporary monitoring wells are completed and ground water pipes. She advised that the homeowner is responsible for monitoring the water and how often it needs to be checked. She discussed the importance of water monitoring, how secondary treatment systems work, that no chemicals should be put into septic systems and also challenges with infiltrator domes. Development Services Director Jennifer Kharrl talked about building permit requirements, timelines, non-buildable properties and suggests that potential buyers do a site review

prior to purchasing.

Southwest District Health Program Manager Mitch Kiester reviewed a presentation on land development. Items that he talked about included the primary goal and function of the Land Development Program, rules and guidelines of the Land Development Program, state statues and that the Health Department has the authority to issue permits. He also reviewed I.C. 39-126 and I.C. 39-414. He also talked about a checklist for subdivisions served by subsurface sewage disposal and advised that it's the homeowners responsibility to provide the Health Department the proper documentation for sanitary restrictions to be lifted. He also reviewed the steps for developing a property. He reviewed some of the concerns in regards to engineering reports not always being done and the need to follow their checklist. Jennifer expressed concerns of plats being held up by the Southwest District Health that have already been approved by the Board of Commissioners. Gem County Associate Planner Michelle Barron talked about timelines for submitting plats to Southwest District Health and a pre-application process that Development Services uses. Brigitta talked about the timelines for the completion of a Subdivision Engineer Report (SER).

COVID DISCUSSION: Emergency Operations Manager Laurie Boston provided updates on the current positive COVID cases in Gem County and the state. She also talked about challenges with Southwest District Health reporting and that the goal for positive percentage is to be less than 5% and that Gem County is currently at 23.08%. She also talked about the vaccine advisory priority which outlines who will receive the vaccines first and also refrigeration trailers. Valor Health Marketing Manager Staci Carr gave updates on the increase of positive cases, the number of people seen in Urgent Care, the Emergency Department and transfers. Valor CEO Brad Turpen advised that they are accepting transfers from other facilities, bed utilization, a wing designation for mild positive COVID cases, staffing shortages and infusions for mild cases. He advised that they have an adequate supply of personal protection devises and that they are still working with the schools, testing for staff and students and what tests are available. He also talked about the treatments that are given to COVID patients that are admitted.

CARES ACT FUNDING: Deputy Prosecuting Attorney Tahja Jensen talked about the Streakwave Wireless, LLC contract and with concerns with the wording of the contract that was presented in regards to Terms and Conditions of Sale. Gem County IT Director Robert McCracken talked about the challenges of trying to make

changes of the contract at this time. There was discussion about alternative payment options. Commissioner Rekow recommends to submit the contract with wanted changes.

A motion was made by Commissioner Rekow to sign the contract for Streakwave Wireless, LLC contract with changes to be made to state Idaho instead of California and if it is not accepted to move forward with their agreement for this account. It was seconded by Commissioner Elliott and carried unanimously.

Clerk Shelly Tilton talked about CARES ACT funding deadlines for submitting reimbursements. She also is asking to have a motion to allow her to do demands that come in this week so they can all be included. She is also asking for approval to add money into the COVID line in the budget when the budget opens.

A motion was made by Commissioner Rekow to authorize the Clerk to pay COVID related expenses through December 11, 2020. It was seconded by Commissioner Elliott and carried unanimously.

A motion was made by Commissioner Rekow to authorize a budget opening in the amount of \$20,000 to pay for COVID related expenses in the COVID line for the CARES ACT. It was seconded by Commissioner Elliott and carried unanimously.

CONSENT AGENDA: The consent agenda included:

A. Rohrbacher Minor Subdivion Findings, Conclusions, Conditions, Order, B. Certificate of Residency for Jessica Belcher, C. Memorandum of Understanding between Ada County and Gem County for loan of refrigerated storage trailer, D. Fiscal Year 2020 annual road and street financial report, E. Streakwave Wireless, Inc. application for account including terms and conditions for sale.

A motion was made by Commissioner Rekow to approve the consent agenda items A - D as presented. Item (E) was previously addressed. It was seconded by Commissioner Elliott and carried unanimously.

CHAMBER BUCKS FOR COUNTY EMPLOYEES FOR CHRISTMAS: There was discussion about giving county employees Chamber Bucks from the Chamber of Commerce in lieu of having a Gem County Christmas Party this year.

A motion was made by Commissioner Rekow to authorize the Clerk to purchase Chamber Bucks for all full-time and part-time employees in the amount of \$25.00 each. It was seconded by Commissioner Elliott and carried unanimously.

PROSECUTING ATTORNEY MATTERS: Deputy Clerk Leandra Rountree talked about the COVID related leave policy. Items that she talked about were the Paid Administrative Leave and how many

employees have used it, how many have exhausted their hours and how much it has cost. She also talked about the Emergency Sick leave and how many employees have used it and that this is a federal program in which the county gets a small reimbursement. The Emergency Sick Leave program will expire on December 31, 2020. She also talked about how many employees are currently on Emergency Sick Leave. Deputy Prosecuting Attorney Tahja Jensen talked about the concerns of people coming to work if they are not being paid. She advised that after December 31, 2020 the only options would be Administrative Leave or Family Medical Leave. Leandra also spoke about the changes to the CDC policy that were recently made. The Commissioners will review the current policy. Tahja also talked about the refrigerated trailer from Ada County that was delivered and reviewed a press release for the Commissioners in regards to the MOU with Ada County. She also provided updates on the Indigent case that is at the Supreme Court.

PUBLIC DEFENSE ANNUAL REPORT: Public Defender Mark Coonts talked about the Public Defense Annual Report and the form requirements that he needed to provide and still needs to submit. He talked about left over money that is going to roll over, but it is for 2 current cases that will be going to trial in 2021.

A motion was made by Commissioner Rekow to accept the 2020 Indigent Public Defense Financial Assistance report as presented. It was seconded by Commissioner Elliott and carried unanimously.

INDIGENT APPLICATIONS: At 11:45 a.m. a motion was made by Commissioner Rekow, seconded by Commissioner Elliott and carried unanimously to go into executive session under Idaho Code 74-206(1)(d) for indigent matters with a roll call vote as follows: Commissioner Rekow, aye, and Commissioner Elliott, aye.

21-005	Cremation
14-024	Notice of Lien
21-006	Notice of Lien

Regular session reconvened at 11:49 a.m.

Commissioner Rekow made a motion on case 21-005 to deny because Gem County is not the obligated county and on cases 14-024 and 21-006 to sign N-1 and statutory liens as applicable. It was seconded by Commissioner Elliott and carried unanimously.

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

FAIRGROUNDS MAINTENANCE POSITION SALARY: Chief Deputy Leandra Rountree spoke about a request for the addition of \$5000 for the fair grounds maintenance position. Clerk Shelly Tilton asked if benefits were included in the increase or if the county would provide that portion. Fairboard Vice Chair Megan Ryals talked about the listed salary and what they are budgeted for. There was discussion about how much the starting salary would be. She talked about how they need to be competitive in the marketplace. Clerk Tilton explained how salaries are generally calculated based off of the budget and the need for base similarity for similar positions. Deputy Prosecutor Attorney Tahja Jensen expressed concerns of calculating the salary the way it is being requested for one person. Megan advised that the position description is more than it was previously with more responsibility. Commissioner Elliott discussed how he feels salaries should be based. Fairgrounds Chairman Dan Heaton advised that they were not receiving qualified candidates at the current salary. Clerk Tilton also spoke about the levy limits of the fair budget stating that more general funds may be needed at some point. Megan said the fair board could contribute the \$5000 but wondered if it could be taken from what is currently budgeted. The Commissioners agree that Commissioner Butticci needs to be part of the decision. The discussion was continued until next week.

LINVILLE REZONE 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 Kharrrl, Associate Planner Michelle Baron, Deputy Prosecuting Attorney Tahja Jensen, applicant Richard Linville, Josh Beach with Sawtooth Surveying, LLC and Gem County resident Joe Morton. Those wanting to present were all sworn in.

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 Kharrrl requested to have the packet entered into record including the rezone application, the recommendation from the Zoning Commission, staff report, the Zoning Commission minutes and a letter from the Gem County Road Department. There were no letters of concerns submitted.

A motion was made by Commissioner Rekow to enter the

information into the record. It was seconded by Commissioner Elliott and carried unanimously.

Jennifer provided a review of the rezone request. This is an application from applicant, Sawtooth Land Surveying, LLC, on behalf of the property owner, Richard and Amy Linville, who is asking for approval to rezone their property from A-2 Rural Transitional Agriculture (5-acre minimum) to R-3 Rural Residential (2-acre minimum). The property proposed to be rezoned is 8.81 +/- acres in size, and lies fully within the Priority Growth Area 1 of the County Residential Area, as designated on the Future Land Use Map in the Comprehensive Plan. She advised that there are no building permits for a single family residence available as it sits today so the parcel would have to go through a subdivision process. She advised that there are no structures on the property and that staff recommended approval of the rezoning application.

Commissioner Elliott asked for testimony from those in favor of the rezone. Josh Beach from Sawtooth Surveying, LLC on behalf of the applicant spoke about rezone request. There were no others that wanted to testify that were in favor or neutral. Gem County resident Joe Morton chose to speak in opposition. He spoke about concerns on water, sewer and roads. He spoke of the public water source areas related to Gem County. No others were in opposition. There was no rebuttal.

Commissioner Elliott advised that the findings have been met with the existing ordinance. Commissioner Rekow spoke about his concerns with traffic, the cumulative effect of more building and also the wells and septic. He advised that he believes that the findings have been met as well.

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

Jennifer advised that the Development Agreement would be with the rezone if the Commissioners chose to but it would be conditioned with the subdivision. Either way the conditions would be the same. She advised that she does not have any concerns with the Development Agreement on this property. Staff would not recommend a Development Agreement on this property. The reason a Development Agreement was not recommended was because the adjacent property just had one done and there were no adverse issues found. No traffic study was requested. She advised that once this property comes forward to subdivide it will be subject to additional studies.

A motion was made by Commissioner Rekow to approve the Linville rezone request as presented. It was seconded by Commissioner Elliott and carried unanimously.

FLOOD DAMAGE PREVENTION ORDINANCE AMENDMENT TO SECTION 13-5-1.R
PUBLIC HEARING CONTINUED:

While being recorded, a continuation of a public hearing was held for proposed amendment to Title 13, Flood Damage Prevention Ordinance. This is a continuation from the original hearing on November 16, 2020. 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 Kharrrl, Associate Planner Michelle Baron, Deputy Prosecuting Attorney Tahja Jensen, applicants Shellee McReynolds and Stefani Dwyer, Andy Waldera from Sawtooth Law and Gem County residents Paul Hudson and Herb Huskinson. Commissioner Butticci attended this meeting via Join Me. All persons wanting to testify were previously sworn in for this hearing.

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 Kharrrl advised that she met with the Maureen O'Shea, the State National Flood Insurance Program Coordinator. Jennifer advised that she received clarification as to why in the Model Ordinance they recommended to prohibit fill in a special flood hazard area and was advised that they left it in there solely for the communities that are involved in the Community Rating System (CRS) program. She advised that there are several areas in the ordinance that they left recommendations for the CRS communities if they want higher standards. There was no scientific reason provided. She also explained the point system of the CRS program.

Jennifer advised that she went through the Flood Damage Prevention Ordinance and that there were Finding & Facts already made. Items that she discussed were flood losses in inadequate elevated areas and unprotected areas. There was discussion on effects of obstructions that cause increases in flood heights and velocities which is already in Idaho Code. She also talked about different ways to prevent flood losses. She was not able to provide information on the cumulative effect of obstruction. Commissioner Elliott expressed concerns on the cumulative effect over the years. Jennifer advised that if they move forward with the amendment everything would have to be engineered. She reviewed the purpose of the ordinance and advised that the proposed amendments would promote public safety and general welfare by having safeguards in place. She advised that the only engineering required is in the floodway since the flood plain areas are not able to be developed. She reviewed portions of the

Comprehensive Plan (Chapter 6-Natural Resources and Hazardous Areas). She advised that it appears that the Comprehensive Plan supports the ordinance if they keep the Community Rating System. She advised that staff supports the ordinance amendment with the options for fill and because there will be safeguards in place to protect the county which would be the engineering report. She also said that these properties are not in the area city impact and that this property is in Priority Growth Area #1. She spoke of current standards and protections that are already in place per code for building in the flood plain. She also spoke about existing homes in the flood plain built under the former flood ordinance and current issues. She advised that there are several surrounding communities that allow building in the flood plain with an engineering plan. She also stated that Washington County is in the process of amending their ordinance to build in the flood plain. She spoke about the number of parcels our current code effects in the county and that it may not effect all parcels since not all of them are 100% in the flood plain. There was discussion on the term "best use" in regards to land development.

Commissioner Elliott expressed his concern of potential flood area increase in the future with increased development. The Commissioners reviewed a draft ordinance form that shows the proposed changes if they approved the amendment. Commissioner Elliot expressed his concern of fill levels. Commissioner Rekow spoke of the flood for 1997, the need to know the cumulative effect along the river, climate change, public safety and land use rights. Commissioner Elliott advised that he supports the amendment with the protection measures in place and also spoke of fill levels. There was discussion on the value of the Community Rating System.

Andy Waldera from Sawtooth Law expressed his concerns about prohibition of fill in the special flood hazard areas and how that effects land use and cumulative effect. He advised that if the Commissioners do deny the request that they must have valid reasons. He also advised that the applicants support the recommendation of the Zoning Commission and also spoke of inconsistencies in the current code. He also talked about the best use of this property, the Comprehensive Plan, Priority Growth Area #1, sister counties and their use of fill, flood control capabilities, engineering bias, the need to rely on the experts (engineers) to do their job and the Community Rating System. There was no additional speakers for In Favour, Neutral or Opposition.

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

A motion was made by Commissioner Butticci to approve the ordinance amendment for the Flood Damage Prevention Ordinance Section 13-5-1.R along with elevation certificate injury plan to be included. This motion was not seconded.

Jennifer reviewed options for the Commissioners whether they were to approve or deny the application. Commissioner Elliott would like to see some scientific data of his concerns. Commissioner Rekow would like more time to consider his decision and potentially make some amendments to what was presented. Deputy Prosecuting Attorney Tahja Jensen explained the applicants rights to appeal if the decision was denial. Commissioner Elliott requested a cumulative effect study and there was discussion as to who could provide that data.

Applicant Shellee McReynolds spoke about the FEMA No Rights Certificate and its purpose. Tahja gave the Commissioners their option for this hearing. It was agreed to have the county engineer contact Keller Associates for a time and cost quote. There was discussion as to the areas that would be included in the study.

A motion was made by Commissioner Rekow to table the Flood Damage Prevention Ordinance amendment and direct staff to seek further information from Keller Associates as well as Army Corp of Engineers to look at the cumulative effect of building houses along the Payette River from the Boise/Gem County line to the Payette/Gem County line in the Flood Zone areas. It was seconded by Commissioner Elliott and carried unanimously.

Commissioner Butticci was absent for the remainder of the day for an off-site meeting.

MINUTES: The minutes from November 16 & 17, 2020 were reviewed. A motion was made by Commissioner Rekow to approve the minutes for November 16 & 17, 2020 as amended. It was seconded by Commissioner Elliott and carried unanimously.

The minutes from December 1, 2020 were reviewed. A motion was made by Commissioner Rekow to approve the minutes for December 1, 2020 as presented. It was seconded by Commissioner Elliott and carried unanimously.

EXPENSE/CLAIMS APPROVAL: The claims presented were reviewed. Commissioner Rekow made a motion to sign the claims as presented and as initialed on the individual claim forms. It was seconded by Commissioner Elliott and carried unanimously.

The Board recessed at 5:07 p.m. to 8:30 a.m. on December 14, 2020.

Approved: _____
Chairman

Attest: _____
Clerk