



September 12 & 13, 2005, Emmett, Idaho

Pursuant to a recess taken on September 6, 2005, the Board of Commissioners of Gem County, Idaho, met in regular session this 12th & 13th day of September, 2005, at 8:00 a.m.

Present:	Sharon Pratt	Chairman
	Michele Sherrer	Commissioner
	Lan Smith	Commissioner
	Susan Howard	Clerk

Whereupon the following proceedings were had, to-wit:

September 12, 2005

Pledge of Allegiance was said.

DEPARTMENT HEAD REPORTS: Dennis Pulley, Road & Bridge Supervisor, reported they are working on Timber Flat Road today. They are busy working on bridges, fixing potholes, and grading roads. The tree roots in the RV Park are coming up in the asphalt along the edge of the roads. There is not a good maintenance program except to replace the trees with ones that will not damage the roads.

Jake Wyant, Noxious Weed Supervisor, reported on the noxious weeds they have been treating. They took care of one small patch of Yellow Star Thistle. He will offer the City of Emmett an invitation to participate in a CWMA project for puncture vine. Jake will look at putting a sterilant on the west end of the RV Park.

Martin Joyce, Landfill Supervisor, reported receiving 718.09 tons of trash, with 103.9 tons sent to Clay Peak last month. The YTD is 9,690.6 tons compared to last year of 9,220.87 tons. There were 3,046 vehicles that brought trash to JAG Landfill in August. They have been busy this month with clean up around the valley, partly because of people dumping garbage along the roadsides and in the draws of the foothills. Tires for County vehicles are on back-order. The Landfill inspection by Health Department went very well.

Debra Smith, Planning & Zoning Administrator, reported that County numbers are way up from last year. There were 39 building permits, 5 manufactured home permits and 5 applications for rezones and miscellaneous permits, with a total of \$44,141.68 collected in fees. Their public hearing is tonight.

Janelle Schnieder, Juvenile Probation Officer, could not attend the meeting and sent a report that showed 84 juveniles on their caseload, with 4 serving detention time.

Mark Rekow, Ambulance Director, reported receiving \$21,276.36 from collections. They had 67 transports and 29 non-transport calls, with 4 visits to the jail. They have had 480 YTD transports. Mark has been speaking at the service clubs in the area concerning the possibility of Gem County going to a paramedic level and/or Ambulance District.

Chuck Shambaugh, Maintenance Supervisor, stated that the elevator door has been fixed. The roof on the ramp going into the basement is finished. He is working at getting the carpet cleaned on the top floor of the Courthouse and in the DMV building.

Brian Sullivan, Building Official, sent a written report because he could not attend the meeting. It showed 20 permits issued with total fees collected of \$20,923.86 for the City of Emmett.

Will Cook, County Extension Agent, reported things are going good—the fair is over and the 4-H year is almost over. He asked about the painting of his office building and was told it should get done the week of September 19, 2005.

Jason Kinley, Mosquito Abatement District Director, presented graphs showing the trap collections of mosquitoes in the County, which are way down and well below the threshold of adult mosquito abatement. He talked about the statistics on West Nile Virus nationwide. Idaho has had 9 reported humans with 0 deaths. There have been 66 horses that tested positive, with 10 of those in Gem County. All of the horses that have died were unvaccinated horses. Gem County had 2 of the 10 birds that tested positive. There has been 1 confirmed human case of West Nile Virus in Gem County. Jason went over the West Nile Virus Response plan that he has developed with several other counties. There are no plans for aerial spraying. There are several petitions in the County that are going around for annexation into the Mosquito Abatement District.

ELECTED OFFICIALS: Greg Himes, Assessor, reported they are busy. On-line renewals for auto license will be available on October 3, 2005. There will be an extra fee of \$1.50 per license renewed on line. They have done about \$5,000 worth of map copying for title companies. Discussion was had on a road where a property owner is encroaching on the County right-of-way with a fence.

Connie Goins, Treasurer, reported tax collection in July was approximately \$41,200 and August was approximately \$39,000. All warrants of distraint were collected. There are 101 parcels owing in excess of a total of \$51,000 in 2002 back taxes. There were 8 NSF checks in July with 2 uncollected. There were 5 NSF checks in August with one uncollected. They have had 43 NSF checks since January 1, 2005, with 13 uncollected. Most of the checks come from Motor Vehicles Department. The tax drive is coming up soon.

Clint Short, Sheriff, reported they have 47 inmates in custody, with 4 from Boise County and 10 from the State. They collected \$20,789.91, with \$14,600 from the State and Boise County, \$3,181 from workout fees and \$804 from inmate phones. The SILD bus has major problems. It will be less money to replace it than fix it.

Susan Howard, Clerk, reported the budget should be approved by Resolution today. The FY2005 budget will be opened this afternoon with a resolution passed tomorrow with the changes. She is starting the levy setting process today. The Clerk's Office is working on fixing overlapping streets in the State Voter Registration System. The Clerk's Office is anxious for the Commissioners to get the HR person hired to take some of the load

off of the Deputy Clerks. Petitions are starting to come in for the right-to-work initiative.

The Commissioners announced that Gem County has been chosen to present before the Sonoran Institute on the positive relationships that Gem County and the City of Emmett have formed. It is an honor to be asked to this forum. They discussed some of the topics the Commissioners had training in last week at a Cost-of-Growth meeting. There will be another training in January.

INDIGENT APPLICATIONS: A motion was made by Commissioner Sherrer, seconded by Commissioner Smith, and carried unanimously to go into executive session under Idaho Code 67-2345(1)(d). Deputy Clerk Sue Spencer presented the following indigent applications:

- 98-039 Application needed a release of lien signed.
- 99-063 Application needed a release of lien signed.
- 03-019 Application needed a release of lien signed.
- 03-044 Application needed a release of lien signed.
- 04-022 Application needed a release of lien signed.
- 04-035 Application needed a release of lien signed.
- 04-097 Application needed a release of lien signed.
- 05-005 Application needed a release of lien signed.
- 05-007 Application needed a release of lien signed.
- 05-008 Application needed a release of lien signed.
- 05-038 Application for medical assistance.
- 05-055 Application for medical assistance.
- 05-063 Application needed a release of lien signed.
- 05-068 Application needed a release of lien signed.
- 05-072 Application for medical assistance needed a statutory lien signed.
- 05-067 Application for medical expenses.
- 05-073 Application for medical expenses needed a statutory lien signed.
- 05-074 Application for medical expenses needed a statutory lien signed.
- 05-075 Application for medical expenses needed a statutory lien signed.

A motion was made by Commissioner Sherrer, seconded by Commissioner Smith, and carried unanimously to come out of executive session.

A motion was made by Commissioner Sherrer to sign releases of statutory liens for 98-039, 99-063, 03-019, 03-044, 04-022, 04-035, 04-097, 05-005, 05-007, and 05-008, to approve 05-038, to approve 05-055 and cancel the appeal hearing, to sign releases of lien for 05-063 and 05-068, to sign a statutory lien and applicable UCC liens for 05-072, to deny 05-067 because of failure to cooperate and incomplete application, to sign statutory liens and applicable UCC liens for 05-073, 05-074, and 05-075. It was seconded by Commissioner Smith and carried unanimously.

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

FY2006 BUDGET APPROVED: A motion was made by Commissioner Sherrer to approve the proposed FY2006 Budget at \$10,756,293, which does

not include the 63-1305 Judgment for Idaho Power, Qwest, and NW Pipeline of \$18,529 (which is a corrected amount from \$128,673). The budget reflects no changes from the proposed budget that was published. It was seconded by Commissioner Smith and carried unanimously.

RESOLUTION No. 2005-11 - FY2006 BUDGET: A motion was made by Commissioner Sherrer to adopt Resolution No. 2005-11 to fix the amount of the FY2006 Budget in the amount of \$10,756,293, which is not greater than the amount of the tentative budget, nor does it include any amount to be raised from property taxes greater than the amount advertised. It was seconded by Commissioner Smith and carried unanimously.

PUBLIC HEARING - WATERS REZONE: Being tape-recorded, a public hearing was held for a rezone request by Jim D. Waters to rezone approximately 5.27 acres from A-2 Rural Transitional Agriculture to R-2 Residential Transitional, located at 2425 Plum Street. Additional written information was received and accepted into the record.

JoAnn Waters, representing Jim Waters, described the rezone requested, using a map to show the property. She stated that they are in the area of impact and they are the only piece of property, except one, that has a fairly large piece of property.

Planning & Zoning Administrator Debra Smith stated that the P & Z Commission recommended approval of the rezone by unanimous vote and that it complies with the Comprehensive Plan. The only concern that was brought up was the access, which would be addressed at the time of any split.

Ray Rohrbacher discussed the access easement.

Grace Kaiser expressed her concerns with the access road that is proposed if the property was split.

Commissioner Smith asked advice of Deputy Prosecuting Attorney David Hargraves concerning private road access used for many years and if it would be a prescriptive easement.

Ray Rohrbacher further discussed the easement.

A motion was made by Commissioner Sherrer to take the matter under advisement. After discussion from Commissioner Smith concerning the findings of the Planning & Zoning Commission, a second was made by Commissioner Smith, and the motion carried unanimously. The hearing was closed.

EXECUTIVE SESSION: A motion was made by Commissioner Sherrer, seconded by Commissioner Smith, and carried unanimously to go into executive session under Idaho Code 67-2345(1)(f) concerning litigation. Those governing bodies present in the meeting were Commissioners Pratt, Sherrer, and Smith. No final decisions were made. A motion was made by Commissioner Sherrer, seconded by Commissioner Smith, and carried unanimously to come out of executive session.

PUBLIC HEARING - ATKINSON REZONE: Being tape-recorded, a public hearing was held for a rezone request by Gene Atkinson to rezone approximately 60 acres from R-2 Residential Transitional to R-1 Residential, located between W. Idaho Blvd. and Edgemont Road,

east of Jackson Ave. The received written comments were acknowledged and entered into the record. The hearing was opened for public input.

Evelyn Atkinson described their request for a rezone, using an illustration that showed the property previously divided into a subdivision that had been approved in 1979. In 2001 all B1 zoned property in that area was changed to R2 zone She stated that what they really wanted was only 20 acres rezoned—not the 60 acres on the request.

Planning & Zoning Administrator Debra Smith reported that the P & Z Commission recommended unanimously to deny the application because it does not comply with the Comprehensive Plan, that it can be used as it is being used, and that it would adversely affect their neighbors. She then answered several of the Commissioners' questions. Commissioner Smith asked that the rationale be considered in the decision as to why the B1 zone was changed to the R2 zone.

Karla Kimball asked why the Atkinsons were not told that there had been a change in the zoning and now do not have the ability to do what they had already been allowed to do. Debbie Smith went over the notice requirements when the zoning was changed in 2001.

Emmett School Superintendent Bob Fontaine stated that he was told that there would be 400 new residences in the rezone, which would greatly impact the schools with a possibility of 600 new students.

Fred Nussbaumer stated that he has petitions with over 150 signatures against the subdivision, primarily because of the size of the lots. He feels the infrastructure is not in place. He stated that DEQ has concerns because of the drainage going into the Payette River. People are concerned about the water, the schools, the sewer, and past history of Atkinson's previous subdivision.

Bill Lange discussed the history of the previous Atkinson subdivision. He thinks there will be lawsuits filed if smaller than one-acre parcels are allowed. He is concerned about water, road, and schools.

Karl Siller described where he lives and does not think anyone should have anything smaller than a one-acre lot. He discussed the opinion that housing does not pay their way for services received. An article from Western Stockman Magazine was accepted into the record that discusses that theory.

Kari Crisp stated she is opposed to the rezone because of the impact on her residence close by. She is opposed to the less than one-acre lots. She stated there is not infrastructure in place.

Gary White stated the Commissioners have a letter on file from him. He stated that 400 houses could be a possibility for the requested rezone of 60 acres if the smallest parcels allowed were used. He had the same concerns already discussed. If the rezone is approved, it sets it up for a subdivision.

Deputy Prosecuting Attorney Davis Hargraves read a part of the Comprehensive Plan describing the area of the rezone request so that Gary White could explain his statement that rezone request does not comply with the comprehensive plan, which he was

not able to do.

Raymond Bowden expressed his concerns about the water and the sewage. The land use plans must be enforced by the County. He does not agree to the "300 foot notice law" and thinks it is not fair. He stated it is not fair for one person to be able to change the whole comprehensive plan. He then went through the requirements for approval of a rezone. He answered Deputy PA Hargraves' question that he has a septic tank sewage system on his property, which is in the same area of the requested rezone. There was further discussion between Commissioner Smith and Mr. Bowden concerning the Comprehensive Plan.

Sue Siller stated she is confused about the number of homes and the number of acres asked for in the rezone. She stated that it was made clear to Atkinsons that they would have to put in a community water system if subdivided. She was told that the amount of property considered by the Commissioners is approximately 60 acres.

Vicki Onthank stated that to her a rural residential lot is not 6,000 square feet. She asked and was told the rezone stays with the property—not the person. They are already allowed to put in 60 homes, which the Atkinsons stated they wanted to do, on the acreage on the application. She also asked about community sewer and water systems.

Jim Smith stated that he concurred with everything that had been said. He is concerned about the traffic, especially on his road, which is Edgemont Drive.

Dan Staples stated that his major concern is of the congestion and the loss of a rural community. He is really not objectionable to the things Atkinsons are planning, but he is concerned with what may change in future plans from possible developers.

Alfred Cole's concern is the septic and waste water.

Connie Harding stated that "residential lot" needs to be defined before a decision can be made. There will be an economic and environmental impact.

Jim Althoff stated that he has seen the property being used successfully as agricultural property.

Evelyn Atkinson stated that in their present subdivision there are only 6-10 children. They have used the jet system on the septic systems in their previous subdivision, which was required. Both the sewer and water systems in their current subdivision has been working well.

Gene Atkinson stated that there are several at the hearing that have half-acre lots with nice homes on them, some in the first Atkinson subdivision.

A motion was made by Commissioner Sherrer to continue the hearing for a matter of seven days to only allow the applicant to review the new information and comment in writing. The hearing was closed.

PUBLIC HEARING - FY2005 BUDGET ADJUSTMENTS: Being tape-recorded, a public hearing was held for the purpose of increasing the FY2005 Budget in various areas using unanticipated revenue received, excess cash and trust funds. A motion was made by Commissioner Sherrer, seconded by Commissioner Smith, and carried

unanimously to continue the hearing until September 13, 2005, at 2:30 p.m. in order to determine more correct figures. The hearing was continued.

QUARTERLY REPORT APPROVED: A motion was made by Commissioner Sherrer, seconded by Commissioner Smith, and carried unanimously to approve the Treasurer/Auditor Joint Quarterly Report for 3rd quarter for FY2005.

DRAINAGE DISTRICT: A motion was made by Commissioner Sherrer, seconded by Commissioner Smith, and carried unanimously to allow the fees of Drainage District No. 1 of Canyon County to be put on the Gem County Tax rolls.

VISION COVERAGE CONTINUED WITH VSP: A motion was made by Commissioner Sherrer, seconded by Commissioner Smith, and carried unanimously to continue coverage with VSP for the County employee vision coverage.

VETERANS MEMORIAL HALL MAINTENANCE NOT FUNDED: A motion was made by Commissioner Sherrer, seconded by Commissioner Smith, and carried unanimously to not fund the request from American Legion Post 49 for maintenance of Veterans Memorial Hall located at 120 North Hayes in Emmett because it does not appear to be a memorial.

RSVP NOT FUNDED: A motion was made by Commissioner Sherrer, seconded by Commissioner Smith, and carried unanimously to deny a request for funds for RSVP due to the Commissioners not wanting to use property taxes to fund charitable volunteer services.

DECISION ON BLACK CANYON PARTNERS PROJECT: A motion was made by Commissioner Sherrer to issue the Decision and Order on Black Canyon Planned Community Application. The application was approved. It was seconded by Commissioner Smith and carried unanimously.

RESOLUTION NO. 2005-12: A motion was made by Commissioner Sherrer, seconded by Commissioner Smith, and carried unanimously to adopt Resolution No. 2005-12 to approve the Specific Plan as set forth and modified by the Decision and Order for Black Canyon Partner's, LLC, application for a planned community.

ORDINANCE NO. 2005-13: A motion was made by Commissioner Sherrer, seconded by Commissioner Smith, and carried unanimously to adopt Ordinance No. 2005-13, amending the Gem County Zoning Map to change the zone designation of certain real property that is a portion of 7N; 1W; sections 24, 25, 26, 35, & 36 and 7N; 1E; sections 19, 20, 29, 30, 31, & 32, Gem County Idaho; and amending the text of the Gem County zoning ordinance.

The Board recessed at 5:00 p.m. to 8:00 a.m. on September 13, 2005.

September 13, 2005

PUBLIC HEARING - CAFO ORDINANCE: Being tape-recorded, a public hearing was held to discuss a proposed CAFO Ordinance. The meeting was opened to the public.

Pam Garrison, representing Black Canyon Partners Planned Community, stated that Black Canyon Partners is concerned about their planned equestrian center, with plans for 80 stalls that would be on 15 acres, which would be 10.6 animals per acre. This would be over the 5-animal limit per acre allowed in the proposed ordinance. The 120-day restriction for more animals may be problematic for their equestrian center. The one-mile radius setback requirement may also be a problem. Pam stated that she thinks this is a good ordinance, but asked that there may be an exemption for Black Canyon Partners Planned Community.

Tom Blessinger, Black Canyon Partners, stated that the feed lot that is already on their property will be removed when the development is built, but there will be horses there year-round. More discussion was had on the matter between Tom, Pam, and the Commissioners. It needs to be determined if the plans for Black Canyon Planned Community falls within the definition of a CAFO.

An unsigned letter in support of an enforced CAFO ordinance was discussed.

Don Wilkerson, Planning and Zoning Commission Chairman, stated that in their research of CAFO ordinances, horse boarding and training operations were not a part of any ordinance they found.

Tom Blessinger stated that there are other animals to consider in the ordinance, such as llamas and alpacas and possibly even elk.

A motion was made by Commissioner Sherrer to take the matter under advisement. It was seconded by Commissioner Smith and carried unanimously. The hearing was closed.

CRAIG-WYDEN DISCUSSION - IAC & FOREST SERVICE: Maggie Colwell from Idaho Association of Counties and Andy Brunel from the Forest Service met to discuss the money received from timber sales in the County. Because the amount will soon be over \$100,000 there are more decisions to be made. The Commissioners need to elect to put 15-20% toward special projects on the national forest and then determine whether the project is on forest health and restoration (Title II) or community service (Title III) or a combination of both. Title II projects are decided on by the Resource Advisory Committee (RAC) and Title III projects are decided on by the County Commissioners.

PROSECUTING ATTORNEY MATTERS: Deputy Prosecuting Attorney David Hargraves met to discuss legal matters.

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

COUNTY LIABILITY INSURANCE: A motion was made by Commissioner Sherrer to sign the renewal confirmation with Idaho Counties Risk Management Program (ICRMP) for liability insurance for the County, which constitutes acceptance of the revised Joint Powers

Agreement. It was seconded by Commissioner Smith and carried unanimously.

PUBLIC HEARING - BUDGET ADJUSTMENT: A public hearing was held and tape-recorded to open and adjust FY2005 budget. A motion was made by Commissioner Sherrer to direct the Auditor to increase the expenditure of the FY2005 budget as follows:

Disaster Services received an unanticipated grant in the amount of \$3,929 for a grant administrator, to be put in Disaster Services 01-11-402-11.

Unanticipated donations were received for dugouts at Gem Island Sports Complex, in the amount of \$8,632 to be put in Parks and Recreation 01-12-550-00.

A home given to the County as a memorial to Walter Knox Memorial Hospital was sold for \$60,217.11, to be put into General Fund 01-18-547-01.

There is excess Block Grant money from FY2004 in the Juvenile Probation Department in the amount of \$15,065.98, to be put in Cigarette Tax/Block Grant 05-56-560-05.

The Victim Witness program in the Prosecuting Attorney's Office received an unanticipated grant of \$6,000, to be put in the Prosecuting Attorney 08-03-405-11.

An unanticipated grant was received in the Juvenile Probation Department for \$12,093 to be put into Juvenile Probation 06-54-429-00.

An unanticipated expense for E-911 equipment was needed; therefore excess funds will be used to increase 19-00-801-04 by \$135,219.

There is excess FY2004 State Vessel Fund money in the amount of \$12,204 to be put in Waterways Fund 38-00-499-03.

The drug forfeiture money collected by the Prosecutor's Office needs to be included in the County Budget, with FY2005 expenses shown, in the amount of \$1,471.42 to be put in the Prosecuting Attorney Department 08-03-531-01.

The service contracts for the Sheriff's Department need to be a part of the County Budget, with FY2005 expenses shown in the amount of \$10,000 to be added to 08-02-406-01.

Money in the amount of \$7,702.50 of the Court Facilities Trust Fund was spent for an unanticipated Magistrate Courtroom remodel, to be transferred from the Court Facilities Fund for expenses in Magistrate Court Department 06-00-360-03 (corrected to 06-51-806-01).

Unanticipated donations were given for advertising of EDGE by the Economic Development Specialist in the amount of \$3,500 to be added to Economic Development Specialist Department 01-04-440-04.

And that a resolution be passed with a certified copy of the resolution to be filed with the County Auditor and Treasurer per Idaho Code 31-1508, and authorize Gem County Auditor to issue warrants from those funds in payment of all claims otherwise legally authorized and incurred under these line items in these funds. The motion was seconded by Commissioner Smith, and it carried unanimously.

RESOLUTION NO. 2005-13: A motion was made by Commissioner Sherrer to adopt Resolution No. 2005-13 to adjust FY2005 budget. It was

seconded by Commissioner Smith and carried unanimously.

CH2M HILL AWARDED CONTRACT: A motion was made by Commissioner Smith to accept the contract through the RFQ proposal process for Construction Manager for Shadow Butte Industrial Park from CH2M Hill in the amount of not more than \$36,409. It was seconded by Commissioner Sherrer and carried unanimously.

CLAIMS: The claims presented were reviewed. A motion was made by Commissioner Smith to pay the claims as presented and noted on the Claims Report Form. It was seconded by Commissioner Sherrer and carried unanimously.

SHADOW BUTTE INDUSTRIAL PARK UPDATE: Members of Shadow Butte Development Corporation, Holladay Engineering, and others met to update the Commissioners on Shadow Butte Industrial Park.

Hill's Construction has started work on the water supply at Shadow Butte Industrial Park. They are in the process of drilling the well. The Utility Contract is still in the bid process.

The final plat has been delivered to the County. The Preliminary Plat for Phase II needs to be done. Holladay Engineering will get an agreement made up with the County to do that.

The sales agreements are ready.

RESOLUTION NO. 2005-14: A motion was made by Commissioner Sherrer, seconded by Commissioner Smith and carried unanimously to adopt Resolution 2005-14 designating 15% of Forest Reserve payments to be allocated at 100% to Title II and 0% to Title III of the 15% of the safety net payments.

ROAD DEPARTMENT PERSONNEL MEETING: The Commissioners met with the County Road and Bridge Department concerning the County Personnel Policies.

The Board recessed at 6:30 p.m. to 8:00 a.m. on September 19, 2005.

Approved: _____
Chairman

Attest: _____
Clerk