



October 17 & 18, 2005, Emmett, Idaho

Pursuant to a recess taken on October 11, 2005, the Board of Commissioners of Gem County, Idaho, met in regular session this 17<sup>th</sup> & 18<sup>th</sup> day of October, 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:

**PLANNER POSITION INTERVIEW:** During executive session on October 13, 2006, at 9:00 a.m., the Commissioners held an interview for the Gem County Planner position.

**October 17, 2005**

**Pledge of Allegiance was said.**

**MORTON REZONE DISCUSSION/DECISION:** After discussion, a motion was made by Commissioner Sherrer to approve the request of withdrawal of Rezone Application No. 349 for Joseph Morton and sign the Order and Decision to do so. It was seconded by Commissioner Smith and carried unanimously. The discussion and decision were tape-recorded.

**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)(b) concerning personnel. 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.

**EXIT INTERVIEW:** During executive session, an exit interview was had for former Gem County Planning and Zoning Supervisor Debra Smith.

**ECONOMIC DEVELOPMENT UPDATE:** Economic Development Specialist Morris Huffman met with the Commissioners. He presented to the Commissioners the E.D.G.E. (Economic Development Grows Economies) By Laws that were adopted October 13, 2005. He went through his schedule for the week.

**BOARD OF COMMUNITY GUARDIANS APPOINTMENT:** A motion was made by Commissioner Sherrer, seconded by Commissioner Smith, and carried unanimously to appoint Gail Gaul to the Board of Community Guardians to complete the 4-year term of Barbara Pultz, which ends August 1, 2007.

**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:

- 05-072 Application for medical expenses.
- 05-073 Application for medical expenses.
- 05-075 Application for medical expenses.
- 05-053 Application needed an appeal hearing set.
- 05-067 Application needed a release of statutory lien signed.
- 05-074 Application for medical expenses.
- 06-002 Application needed a statutory lien signed.
- 06-003 Application for assistance with utilities.
- 06-004 Application 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 deny 05-072 because Worker's Comp may be available, to deny 05-073 because unable to determine indigency or residency and no cooperation, to deny 05-075 because of an incomplete application and inability to determine indigency, to sign a notice of appeal hearing for 05-053, to sign a release of statutory lien for 05-067, to approve 05-074, to approve 06-003 for a power bill of \$167.41, and to sign statutory liens and applicable UCC liens for 06-002 and 06-004. It was seconded by Commissioner Smith and carried unanimously.

**DECISION ON APPEAL HEARING FOR INDIGENT APPLICATION NO. 05-070:** A motion was made by Commissioner Sherrer to uphold the original denial of Indigent Application No. 05-040 because the county is not the last resource and the utility bills were not in the applicant's name. 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.**

**NEW ALCOHOLIC BEVERAGE LICENSE - GEORGE QUICK:** While being tape-recorded, an application for a new Alcoholic Beverage License for George Quick dba Montour County Store was presented. There were no public attending who were opposed to the license. A motion was made by Commissioner Sherrer to approve the Retail Alcoholic Beverage License for George W. Quick dba Montour Country Store. It was seconded by Commissioner Smith and carried unanimously.

**SIDERIDES SPECIAL USE PERMIT APPEAL DISCUSSION/DECISION:** While being tape recorded, the Commissioners discussed the previous appeal of the Planning and Zoning Commission's decision to put certain restrictions on an approval of a Special Use Permit request by Diana Siderides to allow her to teach Reiki classes, located at 56491 Montour Road, Lot 4, Block 1, Montour eights Subdivision.

During the discussion, each point in the special use permit requirements were discussed in how they related to the Siderides application. It was common agreement that the special use permit asked for did qualify in all areas, as long as the planned

building to be built will blend in with the surrounding structures in the subdivision. The enforcement of the subdivision CC&R's will need to be taken care of through their homeowner's agreement.

Restrictions discussed were: non-transferable, no advertisement signs, no more than 4 classes per month or 3 days per week, hours of operation to be 8:30 am to 5:30 pm, no more than 10 students per class, a building permit needs to be issued, a certificate is needed from the local fire district, and the building needs to be constructed to blend in with the residential neighborhood. A motion was made by Commissioner Sherrer to approve Special Use Permit #461, with the discussed stipulations. It was seconded by Commissioner Smith and carried unanimously.

**ATKINSON REZONE DISCUSSION/DECISION:** While being tape-recorded, the previous rezone request #359 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. was discussed.

It was stated that the public hearing was very contradictory, especially in relation to the septic systems. The requirements of the Comprehensive Plan were discussed and the transition from one zone to another. Traffic density and effect on the schools were discussed.

It was stated that the application does not meet the Comp Plan, it can be used as it is currently zoned, and the surrounding properties could be adversely affected.

A motion was made by Commissioner Smith to deny the Gene Atkinson Rezone Application #359 because of the discussed reasons. It was seconded by Commissioner Sherrer and carried unanimously.

**PROSECUTING ATTORNEY'S OFFICE RENTAL AGREEMENT:** A motion was made by Commissioner Sherrer to sign the contract to rent the office building from Tom Woodward for the Prosecuting Attorney's Office building at a rate of \$888 per month. It was seconded by Commissioner Smith and carried unanimously.

**WATERS REZONE DISCUSSION/DECISION:** While being tape-recorded, the previous 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 was discussed.

It was stated that the rezone request does comply with the Comprehensive Plan, it will not adversely affect the surrounding property owners, it will fit well within the zoning of the area, and it would bring this piece of property into line with the neighboring property.

A motion was made by Commissioner Sherrer to approve the Jim D. Waters Rezone Application #355 based upon the discussed reasons. It was seconded by Commissioner Smith and carried unanimously.

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

October 18, 2005

**PUBLIC HEARING - BLACK CANYON PARTNERS PETITION FOR WITHDRAWAL OUT OF FIRE DISTRICT NO. 2:**

Being tape-recorded, a public meeting for the hearing of a petition for withdrawal from Fire District No. 2, approximately 3,232 acres owned by Black Canyon Partners, located on Shalerock Road, Gem County, Idaho, on the grounds that Fire District No. 2, as presently funded, equipped and staffed, cannot serve the property and therefore will not be benefited by remaining with such District. A packet that was presented by Black Canyon Partners was admitted into the record as Exhibit A.

Susan Wildwood, attorney for Black Canyon Partners, went over their position as to why they want to withdraw from Fire District No. 2. She used referrals from Exhibit A. She discussed a fire test for response time that was held between Fire District No. 1, Fire District No. 2, and the Sheriff's Department. She referred to lists of the number and ages of the vehicles of both Fire Districts. She stated that there is more funding available through Fire District No. 1. Through statutory language, there is not a benefit for Black Canyon Partners to stay in Fire District No. 2. She was asked when pumping equipment would be needed and she stated that it would be needed during the first phase. It does not benefit Black Canyon Partners from staying in Fire District No. 2 because of the response time, the equipment, and the funding available.

Mark John, Fire District No. 2, stated that if the Districts are going to be fragmented, they will not be able to meet the needs of the community. The District will grow in equipment and funding as their District grows. The tax base received from the growth of Black Canyon will provide the funding to increase their resources in order to provide adequate fire protection.

Jim Buffington, Fire Chief of Fire District No. 2, discussed urban sprawl in other areas that has caused a problem with fire protection. Mutual aid between Fire Districts works. He stated that Black Canyon only addressed half of Fire District No. 2's resources as far as their equipment. He also addressed their record for response time and their communication resources. He reported that their fire rating is either a 7 or an 8. He addressed several statements that were made by Susan Wildwood. He stated that Black Canyon Partners does benefit by being in Fire District No. 2.

Bob Bowan, resident of Sweet, Idaho, discussed the fire drill that was held and was previously discussed. He stated he felt that nothing from testimony concerning the test should be considered on the record because there were violations of the open meeting law. He stated that Fire District No. 2 needs the tax base.

Colby Buffington, Fire District No. 2, described the equipment that the District has. Their resources are listed in the Gem County Wildfire Mitigation Plan. He stated that Fire District No. 2 currently has the equipment, the manpower, and the resources to fully protect the property owned and being developed by Black Canyon Partners.

Exhibits C, D, and E were admitted into the record.

Rick Welch, Fire District No. 1, asked that they be able to enter their CAD reports into the record, also. He stated that the Fire District ratings would make a difference in homeowners property insurance. Fire District No. 1 is rated at a 5 and Fire District No. 2 is a 7 or 8. There has been talk of combining the two Districts and the possibility of that needs to be followed up on. After being asked if he, in his professional opinion thought that Black Canyon Partners' development would be benefited to be in Fire District No. 2, he said yes. Then he changed the answer to Fire District No. 1.

Bob Kaskel, Fire District No. 1, gave a history of their Fire District response. He stated that the mutual aid agreement in the valley works very well.

Dennis Robbins, Fire District No. 2, stated that they are not limited to mutual aid from only Fire District No. 1. He stated that fire rating is not the same throughout the District. It depends on where the residence is located in the District. Because of that, fire ratings cannot be compared.

Susan Wildwood stated that she thinks that Fire District No. 2 feels that their project is a "cash cow" to get revenue for their district. She discussed several points. She stated that the big test is whether Black Canyon Partners benefits from staying in Fire District No. 2. She stated that there is a difference of fire rating, in funding needed for each Fire District, in response time. She believes they will incur a liability to their residents if they do not try to petition out of Fire District No. 2.

Discussion was had on the statue, ID 31-1427, that states "any portion of a county fire protection district which will not be benefited by remaining within such district may be withdrawn."

Commissioner Smith asked that the record be left open to gather the fire ratings for each District.

The record was left open for one week to receive the ISO ratings for each District, and the public hearing was closed through a motion by Commissioner Smith, seconded by Commissioner Sherrer and carried unanimously.

**PUBLIC WALK-IN AND INPUT:** John Charters, Fair Board member, met concerning purchasing a water truck to be used by the Fair Board. He was given approval to purchase the proposed truck.

Roseanne Daily met to ask if the Commissioners have reviewed the Memorandum of Understanding with the Recreation Department. She will have her Board sign it first and then get it to the Commissioners. There is still a problem from an out-of-town soccer league consuming alcohol on Gem Island Sports Complex and the enforcement of the Ordinance prohibiting it.

**PROSECUTING ATTORNEY MATTERS:** Deputy Prosecuting Attorney David Hargraves meet concerning legal matters.

David was asked to draft an ordinance on the responsibility of the maintenance of homeowners' driveways.

Other matters were discussed.

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

**p.m.**

**PLANNER POSITION INTERVIEW:** During executive session, a telephone interview was had for the position of Gem County Planner.

**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:  
05-060 Application needed a postponement of the appeal hearing.

06-003 Previously approved application for utility expenses.

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 a postponement of the appeal hearing for 05-060 and to rescind a previous approval and deny 06-003 because the application was withdrawn. It was seconded by Commissioner Smith and carried unanimously.

**SHADOW BUTTE INDUSTRIAL PARK - CH2M HILL & HOLLADAY ENGINEERING:**  
Ed Sloan and Mitch Christian from CH2M Hill, Shawn Charters from Sage Community Resources, and John Blom from Holladay Engineering Co. met with the Commissioners.

Discussion was had on working relationships and responsibilities of each group connected to Shadow Butte Industrial Park. CH2M Hill, as the general contractor will be taking over some of the responsibilities that Holladay Engineering have been doing, with Holladay Engineering keeping the contact with the contractors.

CH2M Hill presented a project responsibility matrix. They will work with Holladay to fill it out and then give a completed form to the Commissioners. It will be tailored specifically for the Shadow Butte Industrial Park project.

CH2M Hill and Holladay Engineers will get together and go over the plans and over the specs for the bid for the utilities.

**PUBLIC DEFENDER CONTRACT:** A motion was made by Commissioner Sherrer to sign the Public Defender contract with Law Offices of Mimura, Coulter & Mimura, PLLC in the amount of \$147,000 for FY2006. It was seconded by Commissioner Smith and carried unanimously.

**The Board recessed at 5:00 p.m. to 8:00 a.m. on October 24, 2005.**

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

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