



March 23 & 24, 2009, Emmett, Idaho

Pursuant to a recess taken on March 17, 2009, the Board of Commissioners of Gem County, Idaho, met in regular session this 23rd day of March, 2009, at 8:00 a.m.

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| Present: | Lan Smith | Chairman |
| | Michele Sherrer | Commissioner |
| | Sharon Pratt | Commissioner |
| | Shelly Gannon | Clerk |

Whereupon the following proceedings were had, to-wit:

March 23, 2009

The Pledge of Allegiance was said.

INDIGENT HEARING 09-006: At 10:11 a.m. a motion was made by Commissioner Sherrer, seconded by Commissioner Pratt and carried unanimously to go into executive session under Idaho Code 67-2345(1)(d) for indigent matters with a roll call vote as follows: Commissioner Sherrer, aye, Commissioner Pratt, aye, and Commissioner Smith, aye.

Deputy Clerk Diane Wright and Ann Kaley with Saint Lukes were sworn in. Testimony was given. The case file was entered into the record as Exhibit A, updated information filed by the Clerk dated January 26th as Exhibit B and updated information filed by the Clerk dated March 23rd as Exhibit C.

After reconvening in regular session a motion was made by Commissioner Pratt to close the hearing and keep the record open to accept written documentation of denial from Social Security and Medicaid at which time a decision will be made. It was seconded by Commissioner Sherrer. The application will be on the April 6th agenda for decision. The intent is to approve the application after receiving the denial letters from Social Security and Medicaid. The motion carried unanimously.

INDIGENT APPLICATIONS: At 11:00 a.m. a motion was made by Commissioner Sherrer, seconded by Commissioner Pratt and carried unanimously to go into executive session under Idaho Code 67-2345(1)(d) for indigent matters with a roll call vote as follows: Commissioner Sherrer, aye, Commissioner Pratt, and Commissioner Smith, aye.

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| 09-015 | Sign Final Determination |
| 09-026 | Sign Release of Statutory Lien |
| 09-027 | Sign Release of Statutory Lien |

Commissioner Minutes 03-23 & 24-09

09-028 Sign Release of Statutory Lien
09-033 Sign Release of Statutory Lien
09-030 Sign Notice of Hearing
09-034 Medical Application
09-035 Medical Application
09-040 Sign Notice of Statutory Lien
09-040 Medical Application

After reconvening in regular session at 11:20 a.m., Commissioner Sherrer made a motion to sign Final Determination for 09-015; sign Release of Statutory Lien for 09-026, 09-027, 09-028 and 09-033; sign Notice of Hearing for 09-030; deny 09-034 because the county is not the last resource and the applicant is not medically indigent; approve 09-035; sign Notice of Statutory Lien and approve 09-040. It was seconded by Commissioner Pratt and carried unanimously.

WESTERN STATES CAT - REPLACEMENT LEASE FOR 2 MOTORGRADERS:

Replacing the current lease for 2 motor graders with a lease through Western States Cat was discussed. The new lease will reduce the interest rate and eliminate current and future property tax bills. This discussion was continued to tomorrow afternoon to allow the Prosecutor's office time to review the lease.

The Board recessed at 12:00 p.m. for lunch to reconvene at 1:15 p.m.

A motion was made by Commissioner Pratt to reconsider the motion of item B. Water District 65-A Tax Roll Assessment Request on the consent agenda last week and add it to the consent agenda this week. It was seconded by Commissioner Sherrer and carried unanimously.

CONSENT AGENDA: The Consent Agenda included items A. Certify personal property to real property on parcel RP00325408, B. 2007 tax cancellation for parcel PP02172300, C. Gem County Sports Complex agreement with Gem County Recreation District, D. Boating Safety Agreement between the Idaho Department of Parks & Recreation and Gem County, E. 2010 Census Partners Proclamation, F. March Payroll Claims Approval, G. Timber Butte Subdivision Decision & Order, H. Emergency Medical Services Ambulance Grant letter of approval, I. Gem County Resolution 2009-07 Destruction of Non-Useable Property, J. Gem County Audit for year ended September 30, 2008, K. Reconsideration of tax roll assessment request by Water District 65A.

A motion was made by Commissioner Sherrer to approve items A - J on the consent agenda. It was seconded by Commissioner Pratt with discussion. The 2010 Census

Partners Proclamation was clarified. The motion carried unanimously.

After determining that the interest on the Water District 65-A Tax Roll Assessment Request was for interest on a loan the water district had taken rather than interest on the accounts Commissioner Pratt moved to amend the motion from last week and approve the requests including the interest amount. It was seconded by Commissioner Smith and carried with a nay vote by Commissioner Sherrer. Commissioner Sherrer stated she doesn't feel the request should be allowed to collect fees from 18 years ago.

APPROVAL OF MINUTES: The minutes of March 16 & 17, 2009 were reviewed. A motion was made by Commissioner Sherrer to approve the minutes of March 16 & 17, 2009 as amended. It was seconded by Commissioner Pratt and carried unanimously.

CLAIMS: The claims presented were reviewed. A motion was made by Commissioner Pratt to approve the claims as approved on individual claim forms. It was seconded by Commissioner Sherrer and carried unanimously.

POST CONVICTION RELIEF CASE DISCUSSION WITH PROSECUTOR LINVILLE, PUBLIC DEFENDER MARK MIMURA AND DISTRICT JUDGE

KERRICK: Post conviction and conflict cases and costs associated with those cases were discussed. Public Defender Mark Mimura stated that post conviction claims aren't provided in the current public defender contract. He explained the system and issues involved. He is not interested in doing the post conviction cases. He discussed the increase in number of conflict council appointments. Judge Kerrick agreed that the statute does not provide for a filing fee for post conviction cases. She said she hasn't been asked to request reimbursement but she thinks it should be done. She said that in Canyon County this is part of the public defender contract. Prosecutor Linville said that there have been a number of filings where a private attorney has tried the case and Mark ends up doing the work outside of the public defender contract.

The Board recessed at 5:00 p.m. to 8:00 a.m. on March 24, 2009.

SWEET OPEN FORUM: An open forum was held in Sweet. Those in attendance were Commissioners Smith, Sherrer, and Pratt and Deputy Clerk Leandra Rountree. Topics discussed included a grant received for improvements to the Sweet-Ola Highway and possible stimulus funds for road improvements to the highway as well, Brownlee-Liberty Road improvements,

dust abatement testing and issues, snow removal last winter, tax deeded property in Sweet, the Subdivision Ordinance, CIP, Zoning Ordinance Amendments, and Code Enforcement issues.

March 24, 2009

The Pledge of Allegiance was said.

Commissioner Smith was absent from the meeting due to attendance at a Southwest District Health meeting.

ROAD DEPARTMENT UPDATE: Kim Reed, Road Department Supervisor, met with the Commissioners to discuss Road Department matters. Topics discussed included the road department monthly report, Incident Command training, shale dust on the roads, work the road department has done working with the city on the airport runway, budget constraints and use of seasonal employees.

PLANNING & ZONING UPDATE: Brad Hawkins-Clark, Development Services Director, met with the Commissioners to discuss Planning & Zoning matters. Tonya Larsen with Century 21 Gem Realty joined Brad to discuss options for illegal land splits with regard to Leroy Parks property. Mr. Parks neighbor isn't interested in selling back the 34 acres to make the current 13 acres legal again. Prosecuting Mr. Parks for the illegal split had been discussed with the Prosecutor's office. It was stated that wouldn't resolve the property issues. Possible resolutions offered by Ms. Larsen included grandfathering the parcel, allowing a special variance for health reasons or transferring to prospective new owners and forgiving the new owners for the illegal land split. Tonya stated that other illegal splits have received building permits in the last 3 years. Commissioner Sherrer stated concerns in going outside the ordinance. It was stated that Mr. Parks knew he was splitting the land illegally and chose to do so. Administrative splits and lot line adjustments were discussed. Tonya stated she isn't certain that the land was split illegally intentionally or possibly Mr. Parks doesn't understand the process. She said he did begin the process with Planning & Zoning. Commissioner Pratt stated she isn't sure there is a resolution without violating an ordinance unless the neighbor's land is purchased. Tonya suggested allowing the lot line adjustments retroactively along with prosecuting Mr. Parks. She suggested increasing the penalty for violating the ordinance from the current \$300 penalty. The Commissioners will talk with the Prosecutor about the issue today.

Other topics discussed with Brad included landscaping

at the Shadow Butte Industrial Park, letters being sent to owners of property that have recorded deeds for property that was illegally split, readdressing efforts, zoning and subdivision ordinance amendment workshops, Farm Bureau meeting regarding Cattle Feeding Operations and the design review ordinance committee.

PUBLIC WALK-IN: Morris Huffman with Woody Biomass Partners met with the Commissioners to have Commissioner Pratt sign a Woody Biomass grant pre-application.

Donna Crane met with the Commissioners to discuss the Shadow Butte Industrial Park. She wondered where her sign has gone. She received the letter the Commissioners had sent out and wondered about the status of the park. She said that so much has changed in the last 3 years that it has become a problem for her financially. She would sell the lot back at the assessed value but she wouldn't want to sell it back at the \$2500 per acre it was purchased at. She said the value the property was assessed at seemed high. She would like to know what businesses will be going in out there and what will be done for weed control, she would be willing to pay a percentage of the weed control costs. The Commissioners will schedule a meeting to provide a good update of what is going on to those who have purchased lots.

Dan Shanahan met with the Commissioners regarding the mosquito abatement district. His concern is drug use by an employee of the district. He stated that the employee has been kicked out of the military due to drug use. The Commissioners stated that they had received an unsigned letter so they had no way of following up with the concerned individual as to what they had done regarding the letter. Dan stated that another problem was the bidding process for ATV repair. He stated it was a closed bid but Jason Kinley had shown him Canyon Honda's bid prior to the bid opening. Dan was awarded the bid for the ATV repair. He also sold some tires to the district. Dan said he was not paid the amount he had invoiced and he has requested a 1099 from Jason several times and has not received one. Dan provided copies of the actual estimate and his final invoice for both the work and the tires. Dan has left messages for the Mosquito Abatement District Board but doesn't receive return phone calls. It was clarified that he was not the individual who has previously contacted the Commissioners by phone. He stated that he is here today instead of those individuals as they want to avoid retaliation. Dan discussed fogging that was done while he rode along. Dan said his goal is to obtain a 1099 in order to be able to file his taxes and he would like to see the situation resolved. Urinalysis and hair follicle testing was discussed. The Commissioners will contact the Mosquito

Abatement Board to get Dan the 1099. The Commissioners will contact Dan by phone to let him know of action taken.

CLAIMS: Claims for the Fair and Road Departments had been left out of the claims presented yesterday. The Commissioners reviewed the claims. A motion was made by Commissioner Pratt to approve the claims for the Fair and Road Departments as signed on the individual claims forms. It was seconded by Commissioner Sherrer and carried unanimously.

Commissioner Smith rejoined the meeting.

The Board recessed at 12:00 p.m. for lunch to reconvene at 1:15 p.m.

Brad Hawkins-Clark, Development Services Director, and Code Enforcement Officer Mark Heath met with the Commissioners to discuss code enforcement issues. Enforcement of the cleanup of the Cruickshank property at the top of Freezeout Hill and Bill Grimes' recycling special use permit were discussed. Mark said that currently 6 citations are being litigated. Reimbursement to the county for time spent on code violations was discussed.

PROSECUTING ATTORNEY MATTERS: Deputy Prosecutor David Hargraves met with the Commissioners to discuss Prosecuting Attorney matters. Topics discussed included a lease through Western States Cat to replace a current lease for two motor graders, scheduling an executive session with the Mosquito Abatement District, illegal land splits and code enforcement cases.

A motion was made by Commissioner Sherrer to approve the lease through Caterpillar Financial Services to refinance 2 motor graders thereby reducing lease payments and interest rates. It was seconded by Commissioner Pratt and carried unanimously.

The Board recessed at 5:00 p.m. to 8:00 a.m. on March 31, 2009.

Approved: _____
Chairman

Attest: _____
Clerk