



December 21 & 22, 2009, Emmett, Idaho

Pursuant to a recess taken on December 15, 2009, the Board of Commissioners of Gem County, Idaho, met in regular session this 21st day of December, 2009, at 8:00 a.m.

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

Whereupon the following proceedings were had, to-wit:

**December 21, 2009**

The Pledge of Allegiance was said.

**ALCOHOLIC BEVERAGE LICENSE RENEWALS:** While being recorded, Alcoholic Beverage License renewals for the Triangle Restaurant, Montour Country Store and the Round Up were reviewed.

A motion was made by Commissioner Sherrer to approve alcoholic beverage licenses 24 through 26. It was seconded by Commissioner Pratt and carried unanimously.

**REAL ESTATE PURCHASE & SALE AGREEMENT FOR COUNTY OWNED PROPERTY ON RANCH ROAD (ASSESSOR'S PARCEL RP00368204A):**

After reviewing the Purchase and Sale Agreement a motion was made by Commissioner Sherrer to reject the offer for the amount of \$13,500 from Holly A. and Laura E. Tankersley for property located on Ranch Road, Assessor's Parcel RP00368204A. It was seconded by Commissioner Pratt and carried unanimously.

**GEM ISLAND SPORTS COMPLEX VENDOR PERMITS:** The Commissioners discussed issuing vendor permits and community and profitable events that are held at the Gem Island Sports Complex in order to regulate the use and recover costs incurred and provide for upkeep of the complex. Discussion included permit costs for non profit organizations covering costs incurred by their event and profitable events contributing to the upkeep of the complex at a higher permit cost. The Commissioners contacted the Chamber of Commerce who will send over a copy of the permit rate schedule they use for events, the rates are different for non-profit and for profit organizations. They also contacted the City of Emmett and the Fair Board to request

copies of their event permit schedules.

**INDIGENT APPLICATIONS:** At 11:02 a.m. a motion was made by Commissioner Pratt, seconded by Commissioner Sherrer 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 Smith, aye, Commissioner Sherrer, aye, and Commissioner Pratt, aye.

09-077	Release of Statutory Lien
10-003	Release of Statutory Lien
10-004	Release of Statutory Lien
10-005	Release of Statutory Lien
10-015	Notice of Statutory Lien

After reconvening in regular session at 11:19 a.m. a motion was made by Commissioner Sherrer to sign Release of Statutory Liens for 09-077, 10-003, 10-004 and 10-005 and sign Notice of Statutory Lien and N1 Lien as applicable for 10-015. It was seconded by Commissioner Pratt and carried unanimously.

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

**Commissioner Pratt was absent from the meeting due to attendance at a Western Idaho Community Action Partnership meeting.**

**CONSENT AGENDA:** Items on the consent agenda included A. Fiscal Year 2009 Annual Road & Street Financial Report, B. December Payroll Claims Approval, C. Certificate of Residency for Kimberly Piersol, D. Upper Payette Cooperative Weed Management Area Noxious Weed Cost Share Request 2010 and E. Ratification of an Energy Efficiency Conservation Block Grant Application signed Friday December 18, 2009 in order to meet the grant deadline.

A motion was made by Commissioner Sherrer to approve items A., B., C. and D. removing item E. for discussion. It was seconded by Commissioner Smith and carried unanimously.

Item E. was added to the agenda because it was thought there would be a Commissioner signature required Friday for the grant application. A Commissioner signature was not required so that item was not approved.

**Commissioner Pratt rejoined the meeting.**

**APPROVAL OF MINUTES:** The minutes of December 14 & 15, 2009 were reviewed. A motion was made by Commissioner Pratt to approve the minutes of December 14 & 15, 2009 as amended. It was seconded by Commissioner Sherrer and carried unanimously.

**APPEAL HEARING OF THE ZONING COMMISSION DENIAL FOR A GRAVEL EXTRICATION BUSINESS BY TONY LOUKES:** While being tape recorded, an appeal hearing was held regarding a Special Use Permit application denial for a gravel extrication business applied for by Tony Loukes. In attendance were Commissioners Smith, Sherrer and Pratt, Clerk Gannon, Development Services Director Brad Hawkins-Clark and Deputy Prosecutor Tim McNeese as well as many members of the public.

Commissioner Smith explained the quasi judicial process in which the Commissioners are unable to discuss specific land use issues with the public which would be considered ex-parte communication. Commissioner Smith explained the purpose of the hearing was to hear testimony from the applicant, using only information in the record, as to why he feels the Zoning Commission made an error in their decision, public comment would not be heard at this meeting and new testimony would not be presented. The Commissioners disclosed ex-parte communications they were involved in with members of the public included phone messages they had received which they deleted and conversations they had in which they explained they were unable to discuss the issue. It was stated that input is valued, however decisions are not based on the popularity of an issue, rather they are based on the ordinances and the comprehensive plan.

Shawn Nickel, representing Mr. Loukes, discussed the uses that were requested in the application and stated that some had been withdrawn when they found they didn't meet the zoning requirements in the area. He said that seven residents had testified at the first hearing and the application had been tabled to allow time to address their questions. He said he believed the main concern had been the asphalt plant which had been removed from the application.

Mike Williams referred to the staff report (Exhibit 13) and discussed the history of the area and the site plan which shows two existing pits in the area. Also from the staff report, section Items for Special Consideration, he discussed the asphalt & concrete plant uses which he stated had been removed, the access easement consent for which he said there was an alternate plan and the Gem County drain

crossing for which he referred to a letter from Last Chance Ditch Company dated September 8, 2009 (Exhibit 12) which states they hold no objections to the application. He discussed other existing and approved pits in the area including a gravel pit that was approved in February. Buffering was discussed for the homes the pit would be near.

Shawn Nickel discussed compatibility of a gravel pit in the area stating with other existing and approved pits on 3 sides, this pit would be compatible. General standards and allowable uses provided in the comprehensive plan were discussed.

Commissioner Smith stated his concern with the lack of a plan for what to do with the property to make it fit the comprehensive plan. He doesn't feel it is the County's responsibility to create a plan. He questioned how this area would be residential in the future if it was all ponds.

It was pointed out that a member of the Zoning Commission had stated he didn't want to see residential in the area during one of the zoning hearing.

Mike Williams discussed comprehensive plan designations.

Commissioner Sherrer stated she was concerned with the holes in the application. She discussed allowed use of the area and drainage concerns. She stated the applicant should have reviewed the ordinance regarding the width of the road and easement rather than waiting to see what staff said.

Commissioner Pratt said she doesn't disagree with Commissioner Sherrer and wondered what to do with the large bodies of water. She discussed access issues and impacts on domestic wells in the area. She expressed concerns that an application was approved previously in the year but stated she didn't have information about that application.

Commissioner Smith stated there is no plan to protect the community in the future. He said that testimony from the hearings stated that the ponds would be donated to the county and he has concerns that the county couldn't manage another pond. He doesn't feel the application fits the comprehensive plan points that are laid out clearly that states the area will be residential eventually.

Commissioner Sherrer (referring to Exhibit 27) discussed testimony during the hearing regarding wells going dry.

A motion was made by Commissioner Sherrer to uphold the denial of the Zoning Commission on Special Use Permit of 09-007. It was seconded by Commissioner Pratt with

discussion. Commissioner Pratt stated that she can't support upholding the Zoning Commission decision because she thinks they could have done a better job asking questions, she said existing activities do portray what is going on in the area whether it is the intended use or not, she thinks there are questions & concerns in upholding the decision based on what is happening in the area and based on previous applications that the Commissioners haven't had the opportunity to see. Commissioner Pratt said she empathizes with the residents, she said her decision is based on the record she feels the Zoning Commission could have been more clear in clarifying their denial. She said she agrees with comments Commissioner Smith said in that it does change things out there. The motion passed with aye votes from Commissioners Smith and Sherrer and a nay vote from Commissioner Pratt.

**The Board recessed at 5:00 p.m. to 8:00 a.m. on December 22, 2009.**

**December 22, 2009**

**ELECTED OFFICIALS MEET WITH LEGISLATORS TO DISCUSS ISSUES AND CONCERNS FOR THE UPCOMING LEGISLATIVE SESSIONS:**

Commissioners Smith, Sherrer and Pratt, Clerk Gannon, Assessor Himes, Treasurer Goins and Sheriff Rolland met with Senator Smyser and Representative Thayne to discuss upcoming legislative proposals and other issues. Topics discussed included a proposed bill requiring training and proposing funding for Coroners, funding for Community College tuition, issues caused for hospitals with the Ordinary & Necessary legislation, the medical review process for Indigent Care, costs of medical treatment for inmates, State Agency Obligations including highway mapping, water resources and highway access, the tax shift caused when exemptions are passed, the need for passing lanes and safety programs for Highway 16, the highway allocation formula and collection of fees for water districts.

**DEVELOPMENT SERVICES UPDATE:** Brad Hawkins-Clark, Planning Director and Tim McNeese, Deputy Prosecuting Attorney met with the Commissioners to discuss the appeal hearing of the gravel extrication business by Tony Loukes and the GCAT minor subdivision for a re-consideration on the fence condition of the subdivision approval.

**PUBLIC WALK-IN:** Brian Michels and Mitch Christian from

CH2M Hill met with the Commissioners to drop off a Christmas card and discuss the status of the Bishop Road Bridge project.

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

**ADMINISTRATIVE TIME:** The Commissioners worked on administrative issues and delivered holiday cheer baskets to the county departments.

A motion was made by Commissioner Sherrer to include tax deed properties, Assessor's Parcel RP00368204A located on Ranch Road with a minimum bid of \$25,000 and Assessor's Parcel RP00332600A located on Cascade Road with a minimum bid of \$35,000, to the tax deed property auction. It was seconded by Commissioner Pratt and carried unanimously.

**The Board recessed at 5:00 p.m. to 8:00 a.m. on December 28, 2009.**

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

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