



January 19, 2010, Emmett, Idaho

Pursuant to a recess taken on January 12, 2010, the Board of Commissioners of Gem County, Idaho, met in regular session this 19th day of January, 2010, at 8:00 a.m.

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

Whereupon the following proceedings were had, to-wit:

January 14, 2010

CONFINED ANIMAL FEEDING OPERATION ORDINANCE PUBLIC HEARING:

While being tape recorded a public hearing was held regarding the Confined Animal Feeding Operation (CAFO) Ordinance. Those present were Commissioners Smith, Sherrer, and Pratt, Deputy Clerk Leandra Rountree, Development Services Director Brad Hawkins-Clark, and Deputy Prosecutor Tim McNeese as well as many members of the public.

Brad Hawkins-Clark presented the background of the Confined Animal Feeding Operation Ordinance in a powerpoint presentation.

Commissioner Smith opened the public hearing.

Larry Goodsell stated that his main concerns are the setback issues because of dust and smell. He does not feel that the proposed setbacks are enough, and would suggest that they are increased to 1000 feet or 1320 feet depending on the size of the operation.

Joe Morton feels that it is a good ordinance but he does have some concerns regarding health issues and he also feels that the setback requirements are not enough. He feels that they should be a minimum of 1000 feet and more for larger facilities. He also feels that Idaho State Department of Agriculture has failed with enforcement and that confined animal feeding operations adversely impact surrounding property values.

Commissioner Smith stated that he recognizes the property value issues for both sides.

Steve Ethington stated that the A1 zone is for agriculture and feels that things need to be regulated, but he questions how much it needs to be regulated. He feels that too much regulation will discourage business. He thinks that the setbacks are too excessive and that 300

feet would be adequate. He also feels that there should be a representative like a farmer or rancher who is familiar with confined animal feeding operations on the CAFO Site Advisory Team. He believes that number eight on page five regarding public record requirements should be stricken out completely because he feels that it is a privacy issue.

Joy Sisler expressed her concerns regarding setback issues and water compliance.

Marv Patten with the Idaho State Department of Agriculture (ISDA) clarified that in order to be consistent with the state definition of a CAFO, the 45 days does not have to be consecutive. He also stated that although a facility may not meet the counties definition of a CAFO, state or federal law may designate them as a CAFO due to a number of circumstances.

Commissioner Smith questioned Marv if the State has recommended setbacks. Marv stated that the State does have recommended setbacks for water, but they feel that other setbacks should be left up to the county.

Fran Yett suggested adding a paragraph stating that if the Idaho Department of Agriculture has deemed the operation a CAFO then the ordinance would recognize them as a CAFO regardless of the number of animals.

Bill Hamilton believes that less regulation is better and also agrees that number eight on page five should be removed for privacy reasons. He would also like to see some kind of agriculture representation on the CAFO Site Advisory Team. He is concerned that the complexity will deter someone from coming to Gem County and we need more agriculture base to support our county.

Gene Atkinson stated that he is opposed to the ordinance.

David Whittaker questioned the number of animals that is used to define a CAFO. He feels that the numbers could be cut down to define small, medium, and large. He also has concerns with the setbacks because of property values and downwind exposure.

Rodney Herr feels that we need to accommodate our environment and that agriculture supports a lot of the businesses in the area.

John Kienitz served on the citizens committee and believes there are several things that need to be taken into consideration. He feels that we need to remember that this ordinance is for all species of animals and also that it is a county wide ordinance and there will need to be some flexibility to address particular situations. He also feels that number eight on page five needs to be removed, his main concern with the statement is for pending

complaints. He believes it is up to interested citizens to bring up their concern, that it is not the property owner's responsibility. He feels that there needs to be an industry representative on the Site Advisory Team that can provide insight. He also has concerns regarding the setbacks, he feels that the distances are arbitrary and when it's challenged in court the county may have problems defending themselves. He feels that the county should let the state and federal government carry the ball and keep our ordinance simple.

Claudia Haynes believes it is a good ordinance and amendments could be made to the ordinance at a later time if needed. She stated that the setback distances are important because state agencies such as the Department of Environmental Quality and Idaho State Department of Agriculture have done testing and these numbers are based on the aquifer in our area and that the Department of Environmental Quality has maps to reflect these studies. She also stated that the CAFO Site Advisory Team is a state mandate and that anybody can be added to the list upon the Commissioner's request. She suggested that if they are going to enforce anything the Commissioner's should have a copy of the facilities Nutrient Management Plan whether it is available to the public or not.

The public hearing portion of the hearing was closed.

The Commissioners began discussing the ordinance by reviewing each page. Changes to the definitions were made and a correction was made to show confined in front of all animal feeding operations throughout the ordinance. The Commissioners discussed what the findings are to base a decision on, how long a nutrient management plan is good for, what the appeal process should be, what water tests are required, removing the requirement to provide pending and past complaints, adopting fees along with the ordinance, and what representatives should be on the site advisory team. Additional grammatical and wording changes were also made throughout the ordinance.

The Commissioners will continue discussion on January 19, 2010 at 3:30 p.m.

January 19, 2010

The Pledge of Allegiance was said.

Commissioners Smith, Sherrer and Pratt attended the Local Emergency Planning Committee Meeting.

PUBLIC WALK-IN: No members of the public met with the Commissioners.

Commissioner Pratt was absent from the meeting.

PROSECUTING ATTORNEY MATTERS: Deputy Prosecutor Tim McNeese met with the Commissioners to discuss legal issues. Topics discussed included personal property taxes for road equipment, review of concerns regarding title to the fairgrounds and conversion of Walter Knox Memorial Hospital.

Commissioner Pratt rejoined the meeting.

ELECTED OFFICIALS LUNCHEON: Commissioners Smith, Sherrer and Pratt, Clerk Gannon and Treasurer Goins met for lunch at Tom's Cabin.

CONSENT AGENDA: Items on the consent agenda included A. Gem County Resolution 2010-05 Authorizing Destruction of Certain Gem County Records, B. Certificate of Residency for Alicia Torres and Erin Frederick, C. Geographic Information System Data Product Agreement with Northwest Pipeline GP, D. Gem County Mosquito Abatement District Request for Consent to shift funds within Fiscal Year 2010, E. Gem County Mosquito Abatement District 2009 Year End Report and F. Gem County Mosquito Abatement District 2010 Comprehensive Mosquito Surveillance and Control Plan.

A motion was made by Commissioner Sherrer to approve items A. through F. on the consent agenda. It was seconded by Commissioner Pratt and carried unanimously.

INDIGENT APPLICATIONS: At 2:04 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 Smith, aye, Commissioner Sherrer, aye, and Commissioner Pratt, aye.

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| 10-006 | Hearing Notice |
| 10-011 | Hearing Notice |
| 10-015 | Medical Application |
| 10-016 | Hearing Notice |
| 10-020 | Notice of Statutory Liens |
| 10-021 | Notice of Statutory Liens |

After reconvening in regular session at 2:11 a.m. a motion was made by Commissioner Sherrer to sign Hearing

Notices for 10-006, 10-011 and 10-016; deny 10-015 because the county is not the last resource and unable to determine indigency; sign Notice of Statutory Lien and N1 Lien as applicable for 10-020 and 10-021. It was seconded by Commissioner Pratt and carried unanimously.

CONFINED ANIMAL FEEDING OPERATION ORDINANCE DISCUSSION:

Beginning where they had left off in the public hearing, the Commissioners started with Chapter 8 making wording and grammatical changes. They discussed how many hearings were necessary to be held per item E. in Chapter 8 and who should receive notice of complete applications. Land leveling and natural drainages were discussed. The minimum setbacks of lagoons and waste treatment systems and distance from the high water line were discussed. Affects the ordinance could have on neighboring residential properties and whether or not Section B of Chapter 9 would involve "takings". Variations in other county CAFO Ordinances were discussed. Enforcement action of violations was discussed.

Proposed changes will be made and concerns regarding "takings" reviewed and discussion will continue on January 25, 2010.

JOINT CITY/COUNTY COMPREHENSIVE PLAN PUBLIC HEARING: A

public hearing was held to hear proposed amendments to the Gem Community Joint Comprehensive Plan as recommended by the Planning Commission. Those in attendance from the City included Mayor Butticci, Councilmen Rogers, Welch, Agenbroad, Henderson and Stout, Clerk Lawrence, Deputy Clerk Alsup and City Attorney Bjorkman. Those in attendance from the County included Commissioners Smith, Sherrer and Pratt, Clerk Gannon and Development Services Director Hawkins-Clark. Several members of the Planning Commission and two members of the public also attended.

Planning Commissioner Troy Kockner reviewed proposed amendments to Chapter 1 - Private Property Rights. Grammatical changes were recommended.

Planning Commissioner Troy Kockner reviewed proposed amendments to Chapter 2 - Population and Growth and read the purpose of this chapter. Grammatical and wording changes were recommended.

Planning Commissioner Debbie Rouwenhorst reviewed proposed amendments to Chapter 3 - Housing. Workforce housing was defined and elderly housing language was discussed. Grammatical and wording changes were recommended.

Planning Commissioner Rick Weekly reviewed proposed

amendments to Chapter 5 - Education. He stated that this chapter was greatly re-worked from the current section. The Educational Profile section regarding the dropout rate for the community was discussed. Accuracy of the information was discussed, it was clarified the percentages were obtained from information provided by the Idaho Department of Commerce providing community rather than school district statistics. Planning Commissioner Salazar had stated in a previous meeting and confirmed in a letter dated December 4, 2009 that dropout rate includes students who have moved out of the community or went on to receive GEDs. It was stated this number could also include older citizens from whom school was an option rather than a requirement. Adding a brief clarification about the dropout rate was discussed.

Planning Commissioner Rick Weekly reviewed proposed amendments to Chapter 13 - Implementation. Grammatical and wording changes were recommended. State mandated expenditures not in line with the Comprehensive Plan were discussed as well as accountability of Community Leaders.

There were no public comments for or against any of the proposed amendments. The public hearing was closed.

Mayor Butticci reviewed proposed changes to each chapter. A motion was made by Commissioner Sherrer to accept Chapters 1, 2, 3 and 13 with changes. The motion was seconded by Councilman Agenbroad and carried unanimously.

A motion was made by Commissioner Smith to continue discussion on Chapter 5 on Monday the 8th of February at the joint City/County meeting and hold it over for discussion and final decision. It was seconded by Councilman Henderson and carried unanimously.

The Board recessed at 7:30 p.m. to 8:00 a.m. on January 25, 2010.

Approved: _____
Chairman

Attest: _____
Clerk