

October 2007

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2 **GEM COUNTY PLANNING AND ZONING PUBLIC HEARING**

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6 **Date: October 9, 2007**

7 **Time: 7:00pm - 8:34**

8 **Place: Gem County Courthouse**

9

10 **MEMBERS PRESENT:**

11 **David Poole, Debbie Rouwenhorst, and Don Wilkerson**

12

13 **MEMBERS ABSENT WITH PRIOR NOTICE:**

14 **Lawrence Whitsell and Will Maupin**

15

16 **OTHERS PRESENT:**

17 **Brad Hawkins-Clark - Planning Director/Administrator, and**

18 **David Hargraves - Deputy Prosecuting Attorney**

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24 **This is a summary of the meeting, not verbatim.**

25 **Transcription done by Amanda Shaw.**

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**PROCEEDINGS**

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*City of Emmett, Gem County, October 9, 2007*

4

5 *Consent Agenda: Item No. 1A Darnell Lane Estates Minor*

6 *Subdivision*

7

8 *MR. DAVID POOLE: Is there anything we need to know, Brad,*  
9 *before we start?*

10 *MR. BRAD HAWKINS-CLARK: Darnell's off.*

11 *MR. DAVID POOLE: Darnell's off. I didn't know that.*

12 *Lets bring the meeting to order. We'll start with the*  
13 *minor subdivision review. Don, would you like to pull anything*  
14 *off of the minor subdivision review?*

15 *MR. DON WILKERSON: Well Brad would like us to do it so*  
16 *we'll pull it off the consent agreement and move it down to Item*  
17 *1.*

18 *MR. DAVID POOLE: Second to that motion?*

19 *MRS. DEBBIE ROUWENHORST: I second it.*

20 *MR. DAVID POOLE: Motion seconded. All those in favor*  
21 *signify by saying 'I'. Motion carries.*

22

23 *(Motion carries unanimously.)*

24

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2 *Consent Agenda: Item No. 1B Hansen Acres Minor Subdivision*

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4 *MR. DAVID POOLE: We do have an Exhibit C. Do you want to*  
5 *bring it up to us here, Brad?*

6 *MR. BRAD HAWKINS-CLARK: Thanks, Commissioners. I*  
7 *apologize I didn't get that exhibit attached to that last*  
8 *e-mail. What this is are the findings on this minor*

9 *subdivision. Basically, what I've got on the board up there,*  
10 *I just wanted to point out for the record. Here's Butte Road*  
11 *that runs across the top here. Then there's Blue Bird Lane that*  
12 *runs south. So the 15 acres that the Hansen's own is this piece*  
13 *here, which is the south boundary. So this is 15 acres right*  
14 *there. Then you have a 5 acre. Then there's a lot of property*  
15 *that the Herr's own that continues on over toward the east.*

16 *This one had an objection letter proposed. So we did hold*  
17 *a hearing. One of the questions that came up was, is this a*  
18 *violation because it exceeds 10 parcels on a private road? So*  
19 *the purpose of this was just to show what's out there today. We*  
20 *found that back in '04 this top one here, on the west side, is*  
21 *to have a Butte Road address. So we actually didn't count that*  
22 *one. It doesn't have a house on it today but when it does, it*  
23 *will have a Butte Road address. The one south of it that was*  
24 *owned by the Clip's was the same. They owned it all. So we*  
25 *started with that one. So it would be eight that are legal*

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1 parcels today. If you take this 15 acre and you have the top  
2 one take it's access off of butte and the bottom one off of Blue  
3 Bird, that would be nine. So they probably could have the  
4 option, when it comes to building permit, to take their building  
5 permit from either one, if you approve this.

6 Swander still has a large acreage down at the end of this.  
7 So it should probably be a public road in the future. The nice  
8 thing about it is that it's 60 feet wide in terms of the  
9 easement. So it could probably work for an a public road, but  
10 the way our ordinance is set up, we don't actually force it into  
11 being a public road until they exceed the ten. I just wanted to  
12 clarify that point.

13 MR. DAVID POOLE: Okay. Do we have a spokesman for the  
14 Hansen's here? State your name and address.

15 MR. ROGER BENNIE: Roger Bennie, Tri-County Surveying, 510  
16 South Washington, Emmett, Idaho.

17 MR. DAVID POOLE: Any comment you want to make?

18 MR. ROGER BENNIE: No.

19 MR. DAVID POOLE: Okay. Thank you. Any Public input  
20 that's in favor of this minor sub? Public input that's neutral?  
21 Public input opposed? Can you rebut? Okay. I'll close the  
22 public portion.

23 MR. DON WILKERSON: Before you close the hearing, can I ask  
24 Bennie one question?

25 MR. DAVID POOLE: Certainly.

□

7

1 MR. DON WILKERSON: I have no problem with the minor. Are

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2 you in agreement that you will meet all of the required  
3 conditions of the letters from the agencies and departments,  
4 which is on Exhibit B, Item No. 2? There's a letter from Keller  
5 Associates, Gem County Mapper Don Henderson, Gem County Road and  
6 Bridge, and Idaho Power Company.

7 MR. ROGER BENNIE: Yes. Those have already been addressed.

8 MR. DON WILKERSON: Okay.

9 MR. DAVID POOLE: Any further questions for Mr. Bennie.

10 Thank you very much. Okay, Board, do we want to make a  
11 determination on this?

12 MR. DON WILKERSON: I'd just like to ask Brad about an item  
13 on Exhibit B, Items 5 and 6. One of them is the Fire District.  
14 It appears that they have determined that this falls within Fire  
15 District No. 2. There's a letter from the Fire District that  
16 stated no.

17 MR. BRAD HAWKINS-CLARK: Yes. Thank you for clarifying  
18 that. I was not actually able to get a hold of Bill, who is the  
19 Chairman of Fire District No. 2, who wrote the letter. We  
20 looked at it at the assessor's and they determined that they  
21 have been paying taxes to that district and that area should  
22 fall within.

23 MR. DAVID POOLE: He's been out of town until just  
24 recently.

25 MR. BRAD HAWKINS-CLARK: Okay.

□

8

1 MR. DON WILKERSON: So before this goes before the Board of

October 2007

2 County Commissioners, they'll have to come up with some type of  
3 fire suppression system that's in agreement with the County  
4 Commissioners.

5 MR. DAVID POOLE: You mean the Fire District?

6 MR. DON WILKERSON: Well, that's what I'm saying.

7 MR. DAVID POOLE: Gem County too.

8 MR. DON WILKERSON: It says in here that they need to come  
9 up with some type of fire suppression system before it goes to  
10 the Board of County Commissioners. Is that what you're saying?

11 MR. DAVID POOLE: Your findings are that there should be an  
12 agreement between them and Gem County too?

13 MR. BRAD HAWKINS-CLARK: Yeah. I guess the way I worded it  
14 in five was that they provide fire suppression and vehicle  
15 access comments accordingly. Since the District didn't provide  
16 that, they thought it was outside. My guess is that they're  
17 probably not going to have it on a 5 acre, 2 acre subdivision.  
18 If they do, I just wanted to include that.

19 MR. DAVID POOLE: That makes sense.

20 MR. DON WILKERSON: On Item 6 they need to also provide  
21 some information to the power company that it's not a  
22 distribution instead of a transmission line. What I'm getting  
23 at, in our previous minor subs, before we pass it onto the Board  
24 of County Commissioners we wanted those letters. I was the one  
25 that pushed that. If you feel that will be followed up before

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9

1 it goes before the County Commissioners, then I have no problem.

2 That's what you're saying in both of these.

October 2007

3 **MR. BRAD HAWKINS-CLARK:** *Right. I'm trying not to do that.*

4 **MR. DON WILKERSON:** *My main concern is that we as the*

5 *commission here don't get criticized by the Board of County*

6 *Commissioners for not requiring that before passing it on.*

7 **MR. DAVID POOLE:** *If you want to make a motion, make sure*

8 *that's a requirement. If it's in the recommendations, then all*

9 *we can do is follow the recommendations.*

10 **MR. BRAD HAWKINS-CLARK:** *I think what Don's saying is you*

11 *could table it until you know they've submitted it.*

12 **MR. DON WILKERSON:** *That's what we've done before but I*

13 *don't want to hold up the process if you feel comfortable with*

14 *what you're requiring here. So do you feel comfortable with*

15 *that.*

16 **MR. BRAD HAWKINS-CLARK:** *I'm comfortable that they'll be*

17 *able to do it.*

18 **MR. DON WILKERSON:** *Okay. So that will probably be the*

19 *process we'll look at in the future when these letters aren't*

20 *submitted at the time we look at it.*

21 **MR. BRAD HAWKINS-CLARK:** *If it turns out there's a problem*

22 *this time, then we'll certainly --*

23 **MR. DON WILKERSON:** *Maybe push it back to us before it goes*

24 *to the County Commissioners.*

25 **MR. BRAD HAWKINS-CLARK:** *Right.*

□

10

1 **MRS. DEBBIE ROUWENHORST:** *On easements, we had an issue*

2 *with our Chloe Estates last time. It's on Keller and Associates*

October 2007

3 note on easements requiring the 10 foot easement front and back  
4 in the side lots. We had quite a discussion last time about  
5 encumbering the lots. So I feel that we as a Board should  
6 decide how we're going to look at it so this doesn't come up  
7 every time. On page 9 of the minutes from September 17th, we  
8 were talking about Intermountain Gas and if every subdivision  
9 comes through in Gem County, they would like to have easements  
10 but it was talk that we shouldn't encumber every house by having  
11 easements all around it. If you have an 8 foot set back from  
12 the property line, couldn't that just --

13 MR. DAVID POOLE: It gives you a 16 foot easement.

14 MRS. DEBBIE ROUWENHORST: Right. So is that something we  
15 have to have written on every minor subdivision? That's just a  
16 question because we had quite a discussion at our last meeting  
17 about that. It's in here again from Keller and Associates.

18 MR. DAVID POOLE: Intermountain Gas is probably some  
19 distance away from getting to Butte Road.

20 MRS. DEBBIE ROUWENHORST: Right. If we just decide that,  
21 we don't have to discuss it every time.

22 MR. DAVID POOLE: I think that was the internal lot lines  
23 we were discussing.

24 MR. DON WILKERSON: So what you're saying, Debbie, is  
25 that's usually what we see on the Keller and Associates, that

□

11

1 it's an item that has to be done rather than discuss it every  
2 time?

3 MRS. DEBBIE ROUWENHORST: Yeah.

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4 **MR. DON WILKERSON:** *I agree with you. With an 8 foot side*  
5 *set back, a 5 foot easement on each side of the property line or*  
6 *5 feet on one side, however they want it, should not encumber*  
7 *anybody.*

8 **MR. DAVID POOLE:** *Okay. Any further discussion? If not,*  
9 *you want to bring a motion before the Board?*

10 **MR. DON WILKERSON:** *I make a motion that we make a*  
11 *recommendation to the County Board of Commissioners to approve*  
12 *minor subdivision Hansen Acres Subdivision per Exhibit C that*  
13 *was presented to us by staff. There's 7 items on here. If they*  
14 *provide the letters that are required on this, I have no problem*  
15 *with either one of the 7 items and recommend approval pending*  
16 *those items.*

17 **MR. DAVID POOLE:** *Second to that motion?*

18 **MRS. DEBBIE ROUWENHORST:** *I second it.*

19 **MR. DAVID POOLE:** *Been moved and seconded. Discussion? If*  
20 *not, all those in favor signify by saying 'I'. Motion carries.*

21

22 *(Motion carries unanimously.)*

23

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3 *Consent Agenda: Item No. 2 Approval of the transcription of*

October 2007

4 September 10th, 2007

5

6 **MR. DAVID POOLE:** Any corrections to the minutes? If not,  
7 does anybody want to make a motion to approve the minutes as  
8 submitted?

9 **MRS. DEBBIE ROUWENHORST:** I make a motion that the minutes  
10 be approved as they have been corrected.

11 **MR. DAVID POOLE:** Oh we've had a correction on them? Don,  
12 second?

13 **MR. DON WILKERSON:** Second.

14 **MR. DAVID POOLE:** Those in favor signify by saying 'I'.  
15 Motion carries.

16

17 (Motion carries unanimously.)

18

19 **Public Hearing: Item No. 1 Temporary Hardship Permit**

20 **#THP-07-002 - Julie Pook**

21

22 **MR. DAVID POOLE:** Now we can go on to temporary hardship  
23 07-002.

24 **MR. BRAD HAWKINS-CLARK:** This application is a temporary  
25 hardship permit by Julie Pook. The request is to place a

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13

1 manufactured home on her sons property, which is adjacent to  
2 theirs. It's on 3015 West Idaho Boulevard.

3 This is Idaho Boulevard on top of the screen. Pioneer

4 Avenue is along the right hand of the screen. The property that

October 2007

5 they would like to place the temporary hardship home on is  
6 outlined in yellow here. The existing house is here on the  
7 parcel shown as tax 39.

8 This is from Pioneer Avenue looking west. This is south  
9 from Idaho Boulevard. This is just kind of moving to the west  
10 towards that property line that goes between the two properties  
11 there. This is a driveway that would be proposed to be used.  
12 This is fairly close to the property that is right on the  
13 corner. They would propose to place the home somewhere in this  
14 general location as you come in off of Idaho down the driveway.

15 One of the issues that I've raised in the staff report is  
16 that they are wanting to move this line that is currently  
17 dividing the 2 parcels through a property boundary adjustment,  
18 which doesn't come to you. It's an administrative action. As  
19 long as they meet our basic findings that there are no  
20 encroachments and no other violations then they can do that.  
21 Typically they're not a problem. I haven't approved the  
22 property boundary adjustment yet. I have looked at it. We have  
23 gotten comments back from the assessors and from the surveyor.  
24 They generally don't have any problem. There's one question  
25 that has come up on that about an encroachment. Maybe I'll just

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14

1 ask Julie if she can kind of clarify a little bit more  
2 information on that. So I just bring that up because today,  
3 this is the way the parcels sit. They would like to move that  
4 boundary to the west so that the smaller of the 2 lots, you

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5 would just flip-flop those in size. Then the house would be on  
6 the son's parcel. So the application for you tonight is  
7 technically only on this parcel. You can see, looking in from  
8 Pioneer, there would have to be some trees taken out and things  
9 like that in order to put it on that parcel as it sits today,  
10 versus if the boundary adjustment was approved, you'd have a  
11 cleaner spot. Unfortunately, I can't tell you tonight for sure  
12 if that adjustment is going to be approved. So you really, I  
13 think, have to address the issue of the parcel as it sits today.  
14 So the other point that I wanted to mention from the staff  
15 report relates to a temporary hardship permit that the applicant  
16 raised in her letter from 2005. They are asking that this new  
17 home be on a permanent foundation and that when the need for the  
18 temporary hardship permit goes away that this existing house on  
19 the front be removed as a dwelling and converted into storage.  
20 The ordinance says, the temporary hardship permit, those  
21 dwellings need to be on temporary. She raises the Shawl's in  
22 2005 were apparently approved for putting a temporary hardship  
23 on a permanent. You all may know a little bit more about that  
24 since I wasn't here.

25 MR. DON WILKERSON: Can I address that? Mr. Shawl's mother

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15

1 was living there in a manufactured home on a permanent  
2 foundation. The son want today move there in order to take care  
3 of her. So what was approved was really a building permit for  
4 Mr. Shawl to build a home. Then once the need goes away of  
5 taking care of his mother, then the manufactured home was to be

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6 removed, foundation and all. That was one of the conditions.

7 So it's a little different than this. There was no temporary

8 hardship to begin with. It was actually a manufactured home on

9 a permanent foundation but has to be removed.

10 MR. BRAD HAWKINS-CLARK: So it wasn't a temporary hardship  
11 permit?

12 MR. DON WILKERSON: It was a temporary hardship permit, but  
13 the existing home wasn't a temporary home. It was a permanent  
14 home. What it allowed him was to build a stick built home for  
15 the son to take care of his mother. Then once the need is no  
16 longer there, then the manufactured home was to be gone, plus  
17 the foundation.

18 MRS. DEBBIE ROUWENHORST: So it was there prior to the  
19 stick built.

20 MR. DON WILKERSON: That's correct.

21 MR. DAVID POOLE: They just flip-flopped the uses.

22 MR. BRAD HAWKINS-CLARK: I don't know that there's really  
23 any grounds for precedence. I don't know what role precedence  
24 plays in this. I wanted to bring it up because it was in the  
25 application. I attached the decision for you. I did call

□

16

1 Mrs. Pook called and said there were a few errors in the report.

2 She has written those out and I will give those out to you

3 before she stands up. I just wanted to clarify that she'll

4 address what she finds to be errors in the report here.

5 I think that kind of summarizes where we're at. If you

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6 *decide to approve it, we have some recommended conditions of*  
7 *approval. Right now those conditions are worded so that it*  
8 *would have to be temporary, but these conditions are there for*  
9 *you to talk about and change as you see fit.*

10 *To my knowledge, we don't have anything from Southwest*  
11 *District Health. We typically don't at this point on temporary*  
12 *hardship permits. It's just part of the process. If they get*  
13 *approved, then they have to go get a building permit. So it*  
14 *would just all be there.*

15 *MR. DAVID POOLE: Any questions about this from the Board?*

16 *MR. DON WILKERSON: Could you go back to the photo that*  
17 *showed the driveway. We got this on our desk here tonight. I*  
18 *guess this is supposed to be a site drawing. We didn't get a*  
19 *site drawing that we're normally supposed to have, which would*  
20 *give us the location of the existing structures and that may not*  
21 *be able to do now because you haven't ruled on the property line*  
22 *adjustment, but on this drawing here it shows to the west of the*  
23 *driveway a pasture. To me it looks like it's lawn. Is that a*  
24 *white fence back there?*

25 *MR. BRAD HAWKINS-CLARK: No I don't believe that is.*

□

17

1 *MR. DON WILKERSON: Okay. Thank you.*

2 *MR. BRAD HAWKINS-CLARK: So I'll hand out the document that*  
3 *she prepared here.*

4 *MR. DAVID POOLE: Okay. If there's no further questions*  
5 *for Brad, we'll bring this before the public. We'll ask the*  
6 *applicant to step forward. State your name and address.*

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7 *MR. DON WILKERSON: Can we have a few minutes to look at*  
8 *this?*

9 *MR. DAVID POOLE: Certainly. I apologize.*

10 *MR. DAVID POOLE: Ready Don?*

11 *MR. DON WILKERSON: Yes.*

12 *MR. DAVID POOLE: Okay. State your name and address*  
13 *please.*

14 *MRS. JULIE POOK: Julie Pook, 3015 West Idaho.*

15 *MR. DAVID POOLE: Thank you. If you'll state your case.*

16 *MRS. JULIE POOK: I was just going to go through these*  
17 *verifications of the staff report because they are quite*  
18 *different.*

19 *MR. DAVID POOLE: That's fine.*

20 *MRS. JULIE POOK: On page 2 we asked for the lot line*  
21 *adjustment to be moved to the west as far as the driveway to*  
22 *sell the home. The rest of the piece would be deeded to our*  
23 *son. That home is a manufactured home. I watched it being set*  
24 *on a foundation with 2 pieces. We didn't plan to tap into the*  
25 *septic system.*

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18

1 *The only hold up is not having the lot line adjustment*  
2 *done. The neighbor to the south has a misunderstanding that*  
3 *because we have to have new deeds written that accurately*  
4 *describe to the fence instead of just the deed saying or to the*  
5 *fence line. It has to actually describe it. She is more than*  
6 *confused. The people that have advised her have her thinking*

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7 that we're trying to take part of her land. She's in her mid  
8 90's. So that's why that hasn't been done. It's being worked  
9 on.

10 MR. DAVID POOLE: Anything else?

11 MRS. JULIE POOK: In this picture those trees are fruit  
12 trees. That white you see in the picture is a big plastic that  
13 we've been covering the garden from the frost. That whole thing  
14 is pretty much bare.

15 MR. DON WILKERSON: So there's no pasture between --

16 MRS. JULIE POOK: It was a pasture. We just mowed it with  
17 a lawn mower.

18 MR. DON WILKERSON: But it's not being used as a pasture  
19 now?

20 MRS. JULIE POOK: No.

21 MR. DON WILKERSON: In your statement you mention David's  
22 house is a manufactured home. In the staff report it says  
23 according to the residential building appraisal record for this  
24 property for 1973, this is actually a 1,248 square foot, stick  
25 built home on a concrete foundation. This home isn't considered

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19

1 a manufactured home.

2 MR. DAVID POOLE: They were modular homes.

3 MRS. JULIE POOK: But it is 35 or 40 years old. If this  
4 one was new, my thought was that you could take out the plumbing  
5 or whatever you need to do to make sure it wasn't used for a  
6 residence. Then when we're dead, they can live in our house,  
7 which makes much more sense.

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8 **MR. DON WILKERSON:** *Okay. What is the distance from*  
9 *David's home to your home? Is it 200 or 300 feet?*

10 **MRS. JULIE POOK:** *I believe it's on that plat map.*

11 **MR. DON WILKERSON:** *It doesn't give us any dimensions on*  
12 *this plat map.*

13 **MRS. JULIE POOK:** *Just a second. I think I've got one.*

14 *I'll give this one to you. This one has the dimensions on it.*

15 **MR. DON WILKERSON:** *This still doesn't give me what I've*  
16 *asked. I need to know the dimensions from David's house to your*  
17 *house.*

18 **MR. DAVID POOLE:** *Or where your proposed house will be.*

19 **MR. DON WILKERSON:** *Well I just want to know from David's*  
20 *existing home to your house.*

21 **MRS. JULIE POOK:** *I don't know.*

22 **MR. DON WILKERSON:** *300 feet. That's what it looks like.*

23 **MRS. JULIE POOK:** *Yeah. More like 300 feet.*

24 **MR. DON WILKERSON:** *Is David currently providing*  
25 *assistance?*

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20

1 **MRS. JULIE POOK:** *Yes.*

2 **MR. DON WILKERSON:** *That's all the questions I have. Thank*  
3 *you.*

4 **MR. DAVID POOLE:** *Any questions, Debbie?*

5 **MRS. DEBBIE ROUWENHORST:** *No.*

6 **MR. DAVID POOLE:** *Public input from those that are in favor*  
7 *of this temporary hardship case? Those that are neutral for the*

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8 temporary hardship case?

9 MS. KATHLEEN MCCOY: Kathleen McCoy, 5305 Bain Bridge  
10 Drive, Boise, Idaho. I actually happen to be the owner of tax  
11 lot 11 and 12. There seems to be a problem with the boundary  
12 line. The problem with that boundary line happens to be that  
13 the papers that were presented were not legal documents, nor did  
14 they have a legal description. The description says existing  
15 fence line of which there are two within 6 inches of each other.  
16 So we have a issue with that. The only other issue we have is I  
17 really don't understand what temporary means in this instance.  
18 I need clarification as to how soon after the need no longer  
19 exists will the structure be removed.

20 MR. DAVID POOLE: Would you like to add to that for her,  
21 Brad?

22 MR. BRAD HAWKINS-CLARK: Gem County Ordinance defines the  
23 need as the current need. So it can't continue on. This permit  
24 is specific to the application as before the Commission right  
25 now. Typically, they either move from the property or there's a

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21

1 death and the need's no longer there. Our department does  
2 annual inspections. We don't follow these up every month. So  
3 on the annual inspection if they can not provide a medical  
4 professionals statement saying that the need is still there,  
5 then it would be revoked. If the need goes away and they no  
6 longer need this facility, we give them 30 days to take it off  
7 of the property.

8 MS. KATHLEEN MCCOY: How soon would it be before we could

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9 *get the whole area completely rezoned? I just assume have it*  
10 *rezoned for a residential area. This is probably the third time*  
11 *that I have heard of the hardships in the same general area.*

12 *MR. DAVID POOLE: Those questions, we're going to discuss*  
13 *the case before us. We don't really have the answer for that.*  
14 *If you're a property owner and you want to bring your's up for*  
15 *rezoning, you're entitled to do that.*

16 *Further neutral opposition? Those that are opposed for the*  
17 *temporary hardship case.*

18 *MS. ANN BARKLEY: Ann Barkley, 2314 Pioneer Avenue. I'm*  
19 *having a little trouble understanding why there is this need for*  
20 *another house when David and his parents are already in existing*  
21 *houses that are side by side. It baffles me, to tell you the*  
22 *truth. Is getting him a hundred feet closer to his parents*  
23 *going to make that much difference?*

24 *MR. DAVID POOLE: Okay.*

25 *MS. ANN BARKLEY: If it should evolve down to a point where*

□

22

1 *there was a shortage of sleeping space, what about that rather*  
2 *large workshop that's on the rear of David's lot, which was also*  
3 *a variance. Put a cot in there.*

4 *MR. DAVID POOLE: Okay. Will that be all?*

5 *MRS. ANN BARKLEY: Well I don't like the idea of going into*  
6 *modulars, and trailer houses, and that sort of thing. I think*  
7 *it's not good for the whole neighborhood.*

8 *MR. DAVID POOLE: Okay. Thank you. Any further negative*

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9 input?

10 **MR. GORDON BARKLEY:** *I'm Gordon Barkley. My home is at*  
11 *2314 Pioneer Avenue. I'm just a little bit opposed. The*  
12 *question I really want to raise is how temporary is temporary?*  
13 *I've come and listened to these. I've read the changing, we've*  
14 *got a temporary situation and the hardship situation, for the*  
15 *last 22 or 23 years. Now how temporary is temporary? What's*  
16 *the requirements to remove them instead of rent them and sell*  
17 *them? You're familiar in your mind where my place is. I don't*  
18 *have to tell you.*

19 **MR. DAVID POOLE:** *I think what it boils down to is under*  
20 *the circumstances where they say the need no longer is there,*  
21 *that means that either the parents moved or they pass on.*

22 **MR. GORDON BARKLEY:** *Well what is the need?*

23 **MR. DAVID POOLE:** *There's a doctor's letter that's in here*  
24 *plus there's the fact it's a geriatric need. Let's assume that*  
25 *you were having difficulties and your son needed to help take*

□

23

1 *care of you, it's that same sort of thing. I have the same*  
2 *situation with my father that lives on the ranch up there. He*  
3 *wants his independence, at this point in time, so he lives in*  
4 *another home on the ranch.*

5 **MR. GORDON BARKLEY:** *In the last 10 days, I don't know who*  
6 *needs the care, but in the last 10 days I have seen Carl riding*  
7 *his bicycle on his standard 4 mile a day ride. The thing in my*  
8 *mind, what is meant by temporary and when does the need go away?*

9 **MR. DAVID POOLE:** *Well I think Brad tried to explain that.*

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10 *We can't profess to be medical professionals. So if a medical*  
11 *professional professes that this is the need, then that's what*  
12 *we have to follow. So when that's no longer available to us, we*  
13 *assume that the need is no longer there.*

14 *MR. GORDON BARKLEY: And then it has to be checked, has to*  
15 *be moved.*

16 *MR. DAVID POOLE: Has to be removed. You can't have the*  
17 *two residences on one lot except under the temporary hardship.*

18 *MR. GORDON BARKLEY: When I raised the question a little*  
19 *bit earlier in the day at the office over here, they said they*  
20 *haven't addressed this because that's part of the Health*  
21 *Department or whatever it is. What is the effect that it's*  
22 *going to have on the neighboring wells, the neighboring sewer*  
23 *systems? What is the economical balance we're about to change*  
24 *with another septic tank, another line, and another well?*

25 *MR. DAVID POOLE: Supposedly, the engineers are supposed to*

□

24

1 *have all the answers.*

2 *MR. GORDON BARKLEY: Well what are they?*

3 *MR. DAVID POOLE: Talk to the Health Department. That's*  
4 *who we use is the Health Department. We follow their*  
5 *determination. If the Health Department determines that a house*  
6 *can't be put there, then it won't be put there.*

7 *MR. GORDON BARKLEY: Thank you.*

8 *MR. DAVID POOLE: Thank you. Any further negative input?*  
9 *If not, Julie, you want to address some of these things that*

October 2007

10 were brought up? Address them to the Board please.

11 **MRS. JULIE POOK:** Ms. McCoy's children, who actually own  
12 the property, are here. I have called them and called them and  
13 they won't answer the phone. So I leave a message on their  
14 machine explaining what the whole thing is about. Ms. McCoy  
15 said that fence will stay as is, which is fine. All they have  
16 to do is write new deeds, which scared her. The new deeds have  
17 to be written every time something like this is discovered. It  
18 has to be rewritten to actually be a description to the fence.  
19 You can't just have a deed and say or to the fence line. The  
20 description actually has to be to the fence line. That's all it  
21 is.

22 **MR. DAVID POOLE:** Any questions for Mrs. Pook? Okay.  
23 Thank you very much. We'll close the public hearing portion of  
24 this and bring it before the Board. Commissioners, any of you  
25 had a site visit or ex parte communication? If not, you want to

□

25

1 make some comments, Don?

2 **MR. DON WILKERSON:** I'm having a real struggle with this  
3 one. Mrs. Barkley brought it to point that why is the need  
4 there when they're in such proximity. It's contiguous property.  
5 I have a real problem with approving another building permit at  
6 that location when they are existing and contiguous properties  
7 under the same family ownership. Also, Mrs. Pook did state in  
8 her comments that she is currently receiving assistance from her  
9 son and they both are living in their own homes. In her letter  
10 she mentioned that because they can't take care of it, they've

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11 removed some trees. I commend her for that. If they can't take  
12 care of it, you remove the need so you don't have to do that  
13 kind of thing.

14 My other real struggle with it is it looks like we're  
15 actually doing a split, providing another building permit.  
16 Also, helping maybe sell the home. I would feel better about  
17 this temporary hardship permit if it came before us and the  
18 existing home was sold and under a different ownership. So  
19 that's my struggle with it.

20 I do agree with Brad because of the comments in the staff  
21 report. If it's approved, it needs to be on a temporary found  
22 ation. If it's approved, I'd like to see the condition that the  
23 temporary home does not go into play until the existing Pook  
24 home is sold. At this time, I'll wait until the vote to mention  
25 how I'm going to vote. Thank you.

□

26

1 MR. DAVID POOLE: Any comments, Debbie?

2 MRS. DEBBIE ROUWENHORST: Yeah. Because of personal  
3 experience, I can understand the need for being closer. In the  
4 middle of the night, when there is a need, 225 feet is a  
5 distance. Fortunately I was able to have my in-laws within 20  
6 feet of my back door for six years because of a hardship case.  
7 I commend them for realizing the size of their house is too large  
8 when one of the persons has Demansia and the other one has had  
9 other infirmities. In that case, I don't understand why there's  
10 an issue with the boundary adjustment when it's just on the west

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11 *side. So that's something maybe Roger Bennie can answer. Can I*  
12 *ask him now?*

13 *MR. DAVID POOLE: We're passed the public hearing portion.*

14 *MR. BRAD HAWKINS-CLARK: You'd have to reopen.*

15 *MRS. DEBBIE ROUWENHORST: My question is why there is such*  
16 *an issue with moving the boundary when we're talking about the*  
17 *west, not the southerly, but the west side. So that's my*  
18 *comments.*

19 *MR. DAVID POOLE: Okay. At this point, it is a confusing*  
20 *issue. I wish we could ask the applicant about the reasoning*  
21 *for this. She meant to bring it up. I didn't prompt her to it.*

22 *MR. DAVID HARGRAVES: If you want to reopen, that's fine.*  
23 *Then you can just ask for any other comments in response.*

24 *MR. DAVID POOLE: So if you would, could you explain that*  
25 *to us?*

□

27

1 *MRS. JULIE POOK: Neither one of us are able to take care*  
2 *of a 3,000 square foot house. Both my shoulders are gone, my*  
3 *hips, and my knees. I've had four heart attacks. I physically*  
4 *can't do it.*

5 *MR. DAVID POOLE: So the home size you're going to be*  
6 *putting in is what?*

7 *MRS. JULIE POOK: I don't know. I don't know what we can*  
8 *afford. It isn't going to be no 3,000 square foot home.*

9 *MR. DAVID POOLE: It's going to be after the sale of this.*  
10 *Is that what you're saying?*

11 *MRS. JULIE POOK: Absolutely. The reason they say that*

October 2007

12 *only a few feet makes a difference, the thing of it is, that's*

13 *not the point. It's that we can't live in that house.*

14 *MR. DAVID POOLE: So the 3,000 square foot house is just*

15 *too large for the two of you.*

16 *MRS. JULIE POOK: It's got to go. We wouldn't have to buy*

17 *ground, which we couldn't afford to do. We would be close.*

18 *MR. DAVID POOLE: Closer to your son.*

19 *MRS. JULIE POOK: Well it's not that much. 200 feet may*

20 *not make a difference. If we don't scoot over on the part we*

21 *deed to him, then we've got to leave I don't know how far. So*

22 *that would be a problem.*

23 *MR. DAVID POOLE: Any questions from staff for Mrs. Pook?*

24 *MR. DAVID HARGRAVES: That was in the nature of a rebuttal*

25 *I think.*

□

28

1 *MR. DAVID POOLE: So it's okay? I think she just neglected*

2 *to bring that up. I think we are the ones that make a*

3 *determination on this. So either one of you, Commissioner's*

4 *want to bring this before the Board in the form of a motion?*

5 *MRS. DEBBIE ROUWENHORST: I recommend that we approve the*

6 *temporary hardship case with -- and I believe we have to do it*

7 *on the lot that is the piece prior to the property adjustment?*

8 *MR. DAVID POOLE: There is no adjustment. So we have to go*

9 *with what is there.*

10 *MRS. DEBBIE ROUWENHORST: That it fit within the setbacks*

11 *and per the staff report, on Number 7, that it fit within the*

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12 *staff recommendations, that everything fits in with what the*

13 *staff recommended on Number 7.*

14 **MR. DAVID POOLE:** *Even the permanent foundation? We're not*

15 *going to make any change there?*

16 **MRS. DEBBIE ROUWENHORST:** *Correct.*

17 **MR. DAVID POOLE:** *Okay. Is there a second to that motion?*

18 **MR. DON WILKERSON:** *I second it.*

19 **MR. DAVID POOLE:** *It's been moved and seconded. Any*

20 *discussion on that motion?*

21 **MRS. DEBBIE ROUWENHORST:** *Just as long as it fits the*

22 *conditions of approval.*

23 **MR. DAVID POOLE:** *Okay. Don, any discussion?*

24 **MR. DON WILKERSON:** *No.*

25 **MR. DAVID POOLE:** *If not, all those in favor signify by*

□

29

1 *saying 'I'.*

2 **MRS. DEBBIE ROUWENHORST:** *I.*

3 **MR. DAVID POOLE:** *Opposed.*

4 **MR. DON WILKERSON:** *No.*

5 **MR. DAVID POOLE:** *I get to vote tonight. I vote in favor*

6 *of the motion. So the motion carries. You'll be notified from*

7 *the Planning and Zoning Department. Thank you very much.*

8

9 *(Motion carries with 2 votes in favor and 1 against.)*

10

11 *Public Hearing: Item No. 2 Amendment to the Area of City*

12 *Impact Agreement with City of Emmett*

October 2007

13

14 *MR. DAVID POOLE: Next item on our agenda is amendment to*  
15 *the Area of City Impact Agreement with the City of Emmett. You*  
16 *got some comments on this, Brad, for us?*

17 *MR. BRAD HAWKINS-CLARK: There's three changes that I*  
18 *wanted to bring to you on this. It's mostly the same document.*  
19 *There's just a few adjustments.*

20 *So there's actually two ordinances that you have in your*  
21 *packet tonight. One relates to the Area of City Impact*  
22 *Boundary, the physical boundary of where that would be. I think*  
23 *we do have that on here. This is the map that the County*  
24 *Commissioners approved and the City of Emmett approved to*  
25 *basically adjust the Area of City Impact. There's just this*

□

30

1 *funky thing in state law in Idaho that says you have to have a*  
2 *separate action to establish the boundary. You actually have to*  
3 *go through this step of having a hearing and talk about the*  
4 *actual boundary and basically firm it up. For all intents and*  
5 *purposes I think people recognized happened during the Planning*  
6 *and Zoning Commission and elected official hearings to talk*  
7 *about where you want it. Just to remind you, the boundary from*  
8 *what it is today is proposed to move from Water Wheel up to*  
9 *Frozen Dog. So that's one change from the current boundary.*  
10 *The other is instead of being the Black Canyon Canal, it would*  
11 *move to the 2,700 foot elevation on the east side of the slope.*  
12 *So that's the second change.*

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13 *The third change is going from Cherry Lane to Sales Yard.*

14 *Otherwise, it's the same. Airport on the west and the river on*  
15 *the north. So the first Ordinance you have says that would be*  
16 *the boundary for the Area of City Impact.*

17 *The second Ordinance that you have is the Governing Plans*  
18 *and Ordinances. The purpose of this is to address development*  
19 *within that area. The majority of this document has no changes*  
20 *that are proposed, but there are a few.*

21 *So what I just handed you here tonight, there's three or*  
22 *four areas that are bolded. Those bold changes on that document*  
23 *I gave you are the changes. Those came from the City of Emmett*  
24 *Planning and Zoning Commission. They were actually my*  
25 *recommendations and they agreed with them. David had a few*

□

31

1 *changes as well. So probably the biggest change in this*  
2 *approach, from what we currently have, is what you have to build*  
3 *in a subdivision if you're in the Area of Impact. The best*  
4 *example is the one that we just had maybe 4 months ago on Cherry*  
5 *Lane; the north side of Cherry. That today is in the Area of*  
6 *Impact and it would still be. Well, under the current Area of*  
7 *City Impact it doesn't actually require a curb, gutter, and*  
8 *sidewalk to be built. This one would. It would say at the new*  
9 *right-of-way line, not at the current pavement. That came out*  
10 *of maybe a 20 minute discussion between the Emmett City Council*  
11 *and the Board of County Commissioners. They have a monthly*  
12 *joint meeting. This topic came up mainly because of that*  
13 *project on Cherry. Do we or do we not have these subdivisions*

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14 *actually build the curb, gutter, and the sidewalk now when we*  
15 *don't know when it's going to be widened? They kind of tossed*  
16 *it around. We kind of came to the point of as long as we're*  
17 *pretty confident about how wide we want the road in the future,*  
18 *let's go ahead and get the subdivider today to put in the*  
19 *majority of improvements so that it's not passed on down the*  
20 *line and may get lost or something like that.*

21 *The question of storm water came up because the City of*  
22 *Emmett has a Storm Water Ordinance. That Ordinance says you*  
23 *have to put in a subsurface system to handle all of your storm*  
24 *water from your site. That's pretty tough to design if there is*  
25 *no central storm water sewer available. The point came up that,*

□

32

1 *in that case, we're not going to actually have them put in an*  
2 *underground storm water design or dry well. They can handle it*  
3 *with maybe a ditch or a French drain. It could be a number of*  
4 *different things if they have a real large site. It may just*  
5 *percolate on the site without actually generating any off site*  
6 *if you don't have much ponds.*

7 *MR. DON WILKERSON: But the City's already having problems*  
8 *in some of their subdivisions, even with settlement ponds.*

9 *MR. BRAD HAWKINS-CLARK: They're not allowed anymore.*

10 *MR. DAVID POOLE: They have a very high water table.*  
11 *That's the problem.*

12 *MR. DON WILKERSON: When you mentioned the one outlet on*  
13 *Cherry Lane, I know we went back on that one again. Is the City*

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14 and the County in agreement on what the new right-of-way widths  
15 will be?

16 MR. BRAD HAWKINS-CLARK: Well, that discussion hasn't  
17 happened. If it's in the Area of City Impact, we're using the  
18 City of Emmett Adopted Street Plan. If it's not, then we're  
19 using Gem County's Comprehensive Plan; the Transportation  
20 Chapter.

21 MR. DON WILKERSON: If I remember right, County's was 40  
22 feet on a connector and the City's was 35. Seems like there's  
23 going to be a conflict somewhere down the road.

24 MR. BRAD HAWKINS-CLARK: I guess, in principal, you  
25 wouldn't run into a problem except for right on the boundary.

□

33

1 The City's plan is going to supersede if it's in the Area of  
2 Impact. If it's out in the County, then the City's plan won't  
3 be in effect. You're right, but the actual discussion to  
4 resolve that hasn't happened.

5 MR. DON WILKERSON: So out on Sales Yard, if you develop  
6 the north side, it could be 35 foot from center line. Then on  
7 the south side it could be 40 foot from center line.

8 MR. BRAD HAWKINS-CLARK: Yes. That's on the edge. You're  
9 right. It's the same thing on Frozen Dog and Airport.

10 So on the governing Ordinances, that's the first change in  
11 Number 2. The reason for that first change where it says within  
12 1 mile of the corporate limits but fully within the Area of  
13 Impact, the Subdivision Ordinance of the City of Emmett shall  
14 apply, is mainly for that area around the river. If you go 1

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15 mile beyond, we're not going to apply the City of Emmett  
16 Ordinance on the north side of the river just in case somebody  
17 might try to interpret that differently. David's suggestions  
18 were to take language regarding agreements out and replace it  
19 with more mandatory Ordinance language.  
20 Number 4 on the 2nd page relates to where you have  
21 right-of-way dedications. For example, if Gem County  
22 Commissioners sign a plat in the Area of Impact, they have that  
23 right-of-way because they signed the plat. That land is  
24 dedicated to Gem County. Once that land is an annexed, it would  
25 become City of Emmett property for their street planning. Does

□

34

1 that make sense? So even though the City of Emmett didn't  
2 originally sign that plat, if you're in the Area of City Impact,  
3 it's kind of assumed that, or made clear by this agreement, that  
4 control will go to the City of Emmett. If money is received  
5 from a developer that Gem County takes on, then that money is  
6 put into a trust fund for some kind of future roadway projects.  
7 This is a saying that they will annually review potential  
8 transfers of that money. That may or may not ever come up. We  
9 just wanted the agreement to say something about it, that Gem  
10 County is holding that money because the subdivision was done  
11 through Gem County. It's ultimately going to be a City road.  
12 If the City of Emmett actually builds the road, should they be  
13 able to utilize some of that funding?  
14 MR. DON WILKERSON: Is that part of those forms, the \$1,800

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15 *per building lot?*

16 *MR. BRAD HAWKINS-CLARK: Right.*

17 *MR. DON WILKERSON: So if you have a subdivision and you*

18 *collect your \$1,800, does that \$1,800 dedicated for only that*

19 *portion of the road?*

20 *MR. BRAD HAWKINS-CLARK: Under the program that's in effect*

21 *today, it can be used anywhere in the County.*

22 *MR. DON WILKERSON: So how do you determine what money is*

23 *unspent?*

24 *MR. BRAD HAWKINS-CLARK: Well that would be under the new*

25 *plan that we're going to talk about later. I've got a report.*

□

35

1 *I was going to give you an update. That one breaks it into more*

2 *geographic areas.*

3 *Item C is basically saying that if you're in the Area of*

4 *Impact, you have property that is adjacent to the city limits,*

5 *and you want to do a Planned Unit Development for some kind of*

6 *application that actually changes the use of the property, say*

7 *from a residence to an auto repair shop. If you're going to*

8 *come in with those applications and your next to the City, you*

9 *can't submit to the County first. You first have to go to the*

10 *City and ask to be annexed. If they say no, then they have the*

11 *right to come and apply to the County. The whole purpose of*

12 *City Impact is to allow the City of Emmett to govern as much as*

13 *legally possible.*

14 *MR. DAVID POOLE: And since they're adjacent, they're given*

15 *the first option.*

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16 **MR. BRAD HAWKINS-CLARK:** Right.

17 **MRS. DEBBIE ROUWENHORST:** In the City of Impact, special

18 use permits have come in. Are our special use permits for the

19 County different then those from the City? Are there different

20 Ordinances that govern each one? So we would need to know what

21 the City's Ordinances are for a special use permit if it isn't

22 annexed yet?

23 **MR. DAVID POOLE:** Then we follow our rule s.

24 **MRS. DEBBIE ROUWENHORST:** In the City of Impact?

25 **MR. DAVID POOLE:** What happens in the City of Impact, if

□

36

1 it's contiguous, then they have to ask for an annexation. If

2 they're refused, then they come to the County.

3 **MRS. DEBBIE ROUWENHORST:** Okay. Then I have a question on

4 subdivision rules. We have to follow the City subdivision

5 rules.

6 **MR. BRAD HAWKINS-CLARK:** Right.

7 **MR. DAVID POOLE:** But right now we're talking about planned

8 unit and special use.

9 **MRS. DEBBIE ROUWENHORST:** But then the rules are different.

10 So we go by our rules on special use then, right?

11 **MR. BRAD HAWKINS-CLARK:** Right.

12 **MR. DAVID HARGRAVES:** You're going to have to be versed in

13 some of the City's Ordinances. Luckily, you have good insider

14 information because Brad works for both City and the County. So

15 that will make it a little easier.

October 2007

16 **MR. DON WILKERSON:** *Brad, on your special use permits, if*  
17 *somebody has a piece of property that's contiguous with the*  
18 *existing city limits, it has to be contiguous with existing city*  
19 *limits to be eligible for annexation.*

20 **MR. BRAD HAWKINS-CLARK:** *Right.*

21 **MR. DON WILKERSON:** *Then they have to go to the City first.*  
22 *If it's in the City Impact and not contiguous with existing city*  
23 *limits, it's the County's call, right?*

24 **MR. BRAD HAWKINS-CLARK:** *Correct.*

25 **MR. DON WILKERSON:** *Okay. Thank you.*

□

37

1 **MR. BRAD HAWKINS-CLARK:** *The reason for the special use*  
2 *permit for any application to change is the principal use. An*  
3 *example is a day care. The principal use is still a house. If*  
4 *somebody wanted to do a day care, it requires a special use to*  
5 *have 6 kids or more. Under this, they wouldn't have to go ask*  
6 *for annexation even if they were contiguous because they're*  
7 *really not changing the principal use. They still have the*  
8 *right to use their property under Gem County Ordinances.*

9 **MR. DAVID POOLE:** *It's only when they choose.*

10 **MR. BRAD HAWKINS-CLARK:** *Most of the time, it's going to be*  
11 *a residential or an ag going to some kind of business.*

12 **MR. DON WILKERSON:** *Let's say you've got a piece of*  
13 *property over here with a house and a shop on it and he wants to*  
14 *turn the shop into an auto repair shop but he still lives there*  
15 *in the house.*

16 **MR. DAVID POOLE:** *But he's changing the principal use.*

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17 *It's no longer his shop. He's going to have the public.*

18 *MR. DON WILKERSON: So it would have to go to the City in*  
19 *that case? It can get real sticky.*

20 *MR. BRAD HAWKINS-CLARK: If it's a home occupation, it*  
21 *doesn't change the principal use.*

22 *MR. DON WILKERSON: Okay.*

23 *MR. BRAD HAWKINS-CLARK: The last significant change was*  
24 *the private roads. The City of Emmett, only in very special*  
25 *situations, allows private roads. So this was to kind of help*

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38

1 *the City of Emmett as they grow out into the future. If Gem*  
2 *County approves a lot of private roads and annex them, it*  
3 *creates a nonconforming situation for the City of Emmett. So*  
4 *this helps to cut down on the number of nonconforming land uses*  
5 *that we have in the City of Emmett. It kind of tries to*  
6 *encourage, in the county, to use the existing roads instead of*  
7 *building new private roads.*

8 *So again, if your not comfortable moving tonight, there's*  
9 *no time line that we're under, right, David?*

10 *MR. DAVID HARGRAVES: No.*

11 *MR. BRAD HAWKINS-CLARK: If you feel that you need more*  
12 *time or you want to ask more questions, that's fine. So that's*  
13 *basically what the changes are. If you do recommend approval,*  
14 *it would go to the Board of County Commissioners. These*  
15 *Ordinances would try to be tandem, going to both the City and*  
16 *the County.*

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17 **MR. DON WILKERSON:** *I have a couple of questions on the*  
18 *Governing Plans, Item E, Special Areas. It says areas of*  
19 *influence are the Emmett Water Treatment Plant and the airport.*  
20 *I can really see the airport because of fly overs and landing*  
21 *patterns and that. What's the area of influence of the Waste*  
22 *Water Treatment Plant? Is there a dedicated area around that*  
23 *plant that they can't build homes on, or do you know?*

24 **MR. BRAD HAWKINS-CLARK:** *I actually don't know for sure on*  
25 *that, Don. The City of Emmett owns a pretty good chunk of land*

□

39

1 *there off of Cascade.*

2 **MR. DON WILKERSON:** *If they own it then they couldn't build*  
3 *on it. I just wondered if there was an area of influence that*  
4 *they wanted to control outside of maybe any buffer they have,*  
5 *due to smell or something.*

6 *My other item is Item I, Annexation Area of Impact. The*  
7 *word 'may' does that mean -- in the City of Emmett, do they*  
8 *annex when a property owner wants an annex or can the City of*  
9 *Emmett do a forced annexation?*

10 **MR. BRAD HAWKINS-CLARK:** *The city of Emmett can only force*  
11 *annex in two situations. One, it's less than 5 acres, or it's*  
12 *100% surrounded by City already.*

13 **MR. DAVID POOLE:** *And I think that's what it means by in*  
14 *accordance with applicable law.*

15 **MR. DAVID HARGRAVES:** *Annexation is governed by codes. We*  
16 *can't give them any more authority to annex than what's given to*  
17 *them by code.*

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18 **MR. DON WILKERSON:** Thank you.

19 **MR. DAVID POOLE:** Now we're open for public comment. State  
20 your name and address please.

21 **MR. ROGER BENNIE:** Roger Bennie, 8155 Bill Burns Road,  
22 Emmett, Idaho. I have a question for David. When did we give  
23 up the constitution? In 1774, I believe they had a tea party in  
24 Boston Harbor. The people that are living in these Impact Areas  
25 have absolutely no vote on the City Council or what the City

□

40

1 does here. I have a definite problem with the people that have  
2 no vote to the City, yet the city controls their property, what  
3 they're going to do, how they're going to do it, etc. The City  
4 isn't planning on putting any utilities out there. They're just  
5 going to annex you and they don't provide services. They're  
6 supposed to do that within a reasonable amount of time.  
7 Nobody's ever defined reasonable. That's it. I just had a  
8 comment about it.

9 **MR. DAVID POOLE:** Any questions for Mr. Bennie from the  
10 Commission. Thank you.

11 Further public input? If not, we'll close the public  
12 portion of this and bring it before the Board. Commissioners,  
13 comments? Do we want to make any determination this evening?  
14 Are we're going to continue it? Are we going to table it? Are  
15 we going to approve what's before us?

16 **MR. DAVID HARGRAVES:** Commissioners, your role in this is  
17 to make a recommendation to the County Commissioners.

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18 **MR. DAVID POOLE:** *Right. Thank you, David.*

19 **MR. DON WILKERSON:** *What is the code on annexation, David?*

20 **MR. DAVID HARGRAVES:** *I don't know. It's pretty detailed.*

21 **MR. DON WILKERSON:** *In your opinion, is the most annexation*

22 *initiated by the property owner, or forced, or is it a*

23 *combination of both?*

24 **MR. DAVID HARGRAVES:** *I don't know. Maybe Brad knows.*

25 **MR. BRAD HAWKINS-CLARK:** *My experience is that it's 98%*

□

41

1 *property owner initiated.*

2 **MR. DON WILKERSON:** *Regarding Mr. Bennie's comment, I don't*

3 *know if I'm in total agreement that the people in City Area*

4 *Impact rights are being taken away, maybe it would be different*

5 *once they're annexed into the City because they go under*

6 *different rules. What's your thoughts on it?*

7 **MR. DAVID HARGRAVES:** *We're a representative government.*

8 *People elect a representative and the representatives make these*

9 *kind of decisions. Nobody's here tonight protesting where the*

10 *Area of City Impact has been drawn.*

11 **MR. DAVID POOLE:** *I think his comment is the fact that if*

12 *you're in the County, you're not able to vote for the City*

13 *Council. So if they're going to tell you what to do, he*

14 *suggested that maybe he should get a vote.*

15 **MR. DAVID HARGRAVES:** *Well, that is what this is all about.*

16 *It just tells us which plan is going to govern the Area City*

17 *Impact. That is adopted by Ordinance of the County and*

18 *Ordinance of the City. So he has opportunity to influence you*

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19 *as to which ordinance and plan you think should apply and which*  
20 *one he thinks should apply.*

21 *MR. DAVID POOLE: Then we have the opportunity to correct*  
22 *that at this point.*

23 *MR. BRAD HAWKINS-CLARK: There was an association of*  
24 *several hundred that formed as a result of that southwest Boise*  
25 *annexation. That was one of the exact arguments that they were*

□

42

1 *trying to make, was about representation. So I think, as David*  
2 *said, the argument is not with the City or the County; it's with*  
3 *the legislature. Legislature has said that Cities have the*  
4 *ability to plan a certain area.*

5 *MR. DAVID POOLE: And what you're saying is we need to make*  
6 *this an ordinance. The County and the City both have to clarify*  
7 *it as an ordinance, not just as a comprehensive plan. So we'll*  
8 *have an opportunity to say yes or no to what's before us. Do*  
9 *you want to make any advice to the Commissioners here, Don?*

10 *MR. DON WILKERSON: I make a motion that we recommend*  
11 *approval to the Board of County Commissioners establishing*  
12 *ordinance for establishing boundaries -- I think we have to make*  
13 *two different motions here; right? There's two different*  
14 *ordinances.*

15 *MR. DAVID HARGRAVES: You could make one motion just*  
16 *adopting each of those ordinances.*

17 *MR. DON WILKERSON: I make a motion that we approve this*  
18 *recommendation to the Board of County Commissioners of approval*

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19 *of both ordinances establishing boundaries in the City Area of*  
20 *Impact and governing plans and ordinances in the Emmett Area*  
21 *City of Impact as written with Brad's updated changes on the*  
22 *governing plans.*

23 *MR. DAVID POOLE: Second to the motion?*

24 *MRS. DEBBIE ROUWENHORST: I second it.*

25 *MR. DAVID POOLE: It's been moved and seconded.*

□

43

1 *Discussion? If not, all those in favor signify by saying 'I'.*

2 *Motion carries.*

3

4 *(Motion carries unanimously.)*

5

6 *Regular Meeting: Item No. 1 Items from the public*

7

8 *MR. DAVID POOLE: Okay. Now we have items from the public.*

9 *If not, thank you very much.*

10

11 *Regular Meeting: Item No. 2 Items from the Planning*

12 *Director/Administrator*

13

14 *MR. DAVID POOLE: Items from Planning*

15 *Director/Administrator.*

16 *MR. BRAD HAWKINS-CLARK: I'll make this short. Since we*

17 *don't have the final paperwork, we'll probably just give you*

18 *more comprehensive review at your next meeting. I did want to*

19 *let you know that on Tuesday of last week, the Board of County*

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20 *Commissioners adopted Capital Improvement Program (CIP) for*  
21 *transportation. The plan was prepared by a Parametrix*  
22 *Engineering. They were hired at the request of the County*  
23 *Commissioners. The County Commissioners ended up hiring him*  
24 *under contract to prepare the CIP. The whole principal was to*  
25 *create a basis on which to charge a developer for when there is*

□

44

1 *mitigation that's necessary. So we can have some document to*  
2 *use as the basis for what their mitigation fee would be. The*  
3 *\$1800 that we're using, I worked with Kim Reed at the Road*  
4 *Department. We spent about an hour and said, what's generally*  
5 *your costs to update and maintain one mile of typical roadway?*  
6 *It was a rough guide. It was intentionally low, just to have*  
7 *some kind of start to the process of having development pay it's*  
8 *own way. So that's what we've been using. This study that*  
9 *Parametrix did takes the entire county and divides it in to*  
10 *eight transportation sheds, if you will, like water sheds but in*  
11 *this case they're road sheds. The areas that fit are like the*  
12 *Sweet, Ola area, Pearl, Vanderdasson, Dewey, Upper Bench, South*  
13 *Slope, and I think there's one more. So it says okay, within*  
14 *this area, here's what it costs to rebuild a local road and*  
15 *heres what it costs to rebuild a collector road. Here's what it*  
16 *costs to rebuild an arterial. It takes the entire area, there's*  
17 *eight of them, and here's what it's going to cost in todays*  
18 *dollars to rebuild the road system in that area. They break it*  
19 *down and they basically come up with a per dwelling unit amount.*

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20 *It's based on trips that are generated. It would be different*

21 *if it was an office. It's going to be different if it's an*

22 *industrial use.*

23 *The way that we'll use it, when a pre-application comes and*

24 *says they want to subdivide, we'll sit down at the table and say*

25 *here's generally what we think your impact on the road's going*

□

45

1 *to be. They will have an option to make the improvements*

2 *themselves or we will present our plan and say heres what we*

3 *believe the impacts cost. So there will be a big choice that*

4 *they have to make at that point. It's a significant change in*

5 *the way of looking at growth.*

6 *MR. DAVID POOLE: So you're using this in the subdivision*

7 *side of this?*

8 *MR. BRAD HAWKINS-CLARK: Only the subdivision.*

9 *MR. DAVID POOLE: Only the subdivision. You're not getting*

10 *down to individual dwellings. Is it the subdivision and minor*

11 *subdivisions?*

12 *MR. BRAD HAWKINS-CLARK: Yeah.*

13 *MRS. DEBBIE ROUWENHORST: What are the fee structures on*

14 *this; the mitigation amounts?*

15 *MR. BRAD HAWKINS-CLARK: There's a different amount for*

16 *each area.*

17 *MRS. DEBBIE ROUWENHORST: So we're starting from what*

18 *amount?*

19 *MR. BRAD HAWKINS-CLARK: I think the lowest fee is \$8,500*

20 *per unit. The highest was \$20,000 per unit, which was Pearl.*

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21 *The Commissioners chose to reduce that by 30%. So rather than*  
22 *actually charge the fee that Parametrix came up with, they said*  
23 *we're going to take 30% off of that and that's what we're going*  
24 *to use. I think the main reason they did that was because they*  
25 *were so high. They weren't comfortable with having it. If you*

□

46

1 *got 20 miles of local road up on the bench, whether you're*  
2 *talking central or whatever, at some point, those are going to*  
3 *need to be rebuilt. According to Kim, a majority of them are*  
4 *just oil on top of dirt.*

5 *So this assumes a full base with the full road section.*

6 *You've already approved the Road Ordinance. If you take that*  
7 *cross section of a street, that's what they used.*

8 *MRS. DEBBIE ROUWENHORST: Why did they go into different*  
9 *sections and not just do unilateral price? When you're going*  
10 *far to the west, you have a lot of roads that way that aren't*  
11 *going to be developed for many years to come. So why not make*  
12 *it uniform all the way through?*

13 *MR. BRAD HAWKINS-CLARK: Yeah. It's a good question. They*  
14 *talked about it. I think they felt that because it was such a*  
15 *big difference in rebuilding a road in Pearl from what it costs*  
16 *to rebuild down in the valley, they felt it was more equitable.*  
17 *You could argue both ways.*

18 *MR. DAVID POOLE: What's going to happen is that down here*  
19 *you're going to have more dwellings because of the way the*  
20 *growth is.*

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21 **MRS. DEBBIE ROUWENHORST:** *Right. With more dwellings down*  
22 *here, it could off set the cost.*

23 **MR. BRAD HAWKINS-CLARK:** *There's a document that is on each*  
24 *area and breaks it down by number. Parametrix is changing that*  
25 *to reflect the new revised plan. I will get that for you and we*

□

47

1 *can do more discussion on it. I just wanted to let you know*  
2 *that they did adopt that. We're presenting that now as an*  
3 *option. It's not, as David has reminded us several times, an*  
4 *impact fee. It's not charged to every house. This is a*  
5 *mitigation to the roadways. It's an approach that the*  
6 *Commissioners wanted to go.*

7 **MR. DON WILKERSON:** *You mentioned that it's only for*  
8 *subdivisions and minor subs or whatever. So did they look at*  
9 *any commercial development that might be out on a County road*  
10 *that's got a combination of commercial and residential?*

11 **MR. BRAD HAWKINS-CLARK:** *No the commercial would pay.*

12 **MR. DON WILKERSON:** *Okay that's what I thought you said at*  
13 *first. If you look at Ada County Highway District, they got a*  
14 *dictionary of uses and what they want them to pay.*

15 **MR. BRAD HAWKINS-CLARK:** *Right.*

16 **MR. DON WILKERSON:** *So you'll have kind of a list like that*  
17 *too?*

18 **MR. BRAD HAWKINS-CLARK:** *Right.*

19 **MR. DON WILKERSON:** *Per area?*

20 **MR. BRAD HAWKINS-CLARK:** *Right.*

21 **MR. DAVID POOLE:** *Further questions for th*

October 2007

22 *Director/Administrator?*

23 *MR. DON WILKERSON: Can you hand us out anything tonight or*  
24 *are you going to withhold it?*

25 *MR. BRAD HAWKINS-CLARK: It's all public record now. I*

□

48

1 *didn't bring it because it's not the total latest and greatest.*

2 *If you want, it's there at the office.*

3 *MR. DON WILKERSON: How many books does it take up?*

4 *MR. BRAD HAWKINS-CLARK: Actually, the heart and sole of it*  
5 *is three or four pages per area plus three or four maps.*

6 *MR. DON WILKERSON: So I can come in and get a copy?*

7 *MRS. DEBBIE ROUWENHORST: Also, can we have a copy of the*  
8 *City Subdivision Ordinance? Then we can just have it in our*  
9 *files since we have to do that City of Impact Area now.*

10 *MR. DAVID POOLE: And I'm sure your files getting large.*

11

12 *Regular Meeting: Item No. 3 Items from the Deputy Prosecuting*  
13 *Attorney*

14

15 *MR. DAVID POOLE: David, any comments?*

16 *MR. DAVID HARGRAVES: If I can just take about a minute and*  
17 *a half, unless you have any questions. Don mentioned, when he*  
18 *made a motion, he referred to the findings that staff made in*  
19 *Exhibit C. I just want to reiterate how important that is. The*  
20 *Planning and Zoning Commission is required to issue written*  
21 *findings. These findings are listed by ordinance. I think*

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22 *there's a couple ways of getting your findings. The staff does*  
23 *a preliminary analysis and if you agree with that, the easiest*  
24 *thing to do is to say you agree. If you don't agree with it,*  
25 *then you can take each finding one by one and maybe the*

□

49

1 *Commission has a difference of opinion on whether each finding*  
2 *has been met. You can use each one of those findings as kind of*  
3 *a central focus for your debate as you deliberate. The reason I*  
4 *bring this up is because I've seen other jurisdictions struggle*  
5 *with this. The Planning and Zoning Commission didn't really*  
6 *deliberate on those findings and they ended up having a tied*  
7 *vote. So it was virtually impossible to write findings of fact*  
8 *because there was no majority decision on any one of them. So I*  
9 *just wanted to reiterate that's really helpful that you refer to*  
10 *the findings that staff has made.*

11 *MR. DAVID POOLE: What if there's just one you want to*  
12 *change? Can you address that one only?*

13 *MR. DAVID HARGRAVES: Absolutely.*

14 *MR. BRAD HAWKINS-CLARK: I forgot to tell you that each of*  
15 *the rezones you have recommended approval on, except for maybe*  
16 *two of them that haven't had hearings yet, have been approved by*  
17 *the Board. So you're on the same page there.*

18

19 *Regular Meeting: Item No. 4 Items from the Planning and Zoning*  
20 *Commission*

21

22 *MR. DAVID POOLE: Items from the Commission?*

October 2007

23 **MRS. DEBBIE ROUWENHORST:** *I just wanted to let you know I*  
24 *will not be here for the November meeting.*

25 **MR. DON WILKERSON:** *For tonight we only had 3 of the*

□

50

1 *Commission members here. That could really have thrown a*  
2 *crinkle into the temporary hardship. I was against it. By not*  
3 *seconding her motion, would that have been right?*

4 **MR. DAVID POOLE:** *What you did was probably the appropriate*  
5 *thing.*

6 **MR. DON WILKERSON:** *I agree but if I really wanted to be*  
7 *hard-nosed, I could have not seconded it and would have actually*  
8 *died tonight.*

9 **MR. DAVID POOLE:** *At that point, all we could do is table*  
10 *it to the next meeting.*

11 **MR. DON WILKERSON:** *I don't know if the Chairman could*  
12 *actually second a motion.*

13 **MR. DAVID HARGRAVES:** *I think we'd have to look at the laws*  
14 *and see what they say. As far as I know, there's nothing in*  
15 *State Law that says the Chairman can't vote except for in a tie.*

16 **MR. BRAD HAWKINS-CLARK:** *Article 2, Section 2 C, the*  
17 *Chairperson will vote only to break a tie.*

18 **MRS. DEBBIE ROUWENHORST:** *So no second and no motions.*

19 **MR. DAVID HARGRAVES:** *And I don't know if I like that.*

20 **MR. DON WILKERSON:** *So are they looking at additional*  
21 *members? If you get to many, you have to have too many for a*  
22 *quorum.*

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23 **MR. BRAD HAWKINS-CLARK:** *I think they are talking next week*  
24 *about establishing that Planning Commission. The draft*  
25 *ordinance has been done. I think there's enough members. So I*

□

51

1 *think they just have to get together now and appoint.*

2 **MR. DAVID POOLE:** *So are we down to three on this*  
3 *Commission now?*

4 **MR. DAVID HARGRAVES:** *I think it has to be between five and*  
5 *twelve.*

6 **MR. DON WILKERSON:** *Will and Lawrence are the only other*  
7 *two.*

8 **MR. DAVID POOLE:** *We do have five members. We just have a*  
9 *quorum of three. Any other items?*

10

11 *Regular Meeting: Item No. 5 Adjourn*

12

13 *Let's go to Item Number 5 on the Regular Meeting.*

14 **MR. DON WILKERSON:** *I make a motion that we adjourn*  
15 *tonights meeting.*

16 **MRS. DEBBIE ROUWENHORST:** *I second.*

17 **MR. DAVID POOLE:** *Debbie seconds it. Motion carries.*

18

19 *(Motion carries unanimously.)*

20

21

22

23

*October 2007*

24

25