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

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6 **Date: November 13, 2007**

7 **Time: 6:59 p.m. - 10:11 p.m.**

8 **Place: Gem County Courthouse**

9

10 **MEMBERS PRESENT:**

11 **David Poole, Don Wilkerson, Will Maupin, and Lawrence**

12 **Whitsell**

13

14 **MEMBERS ABSENT WITH PRIOR NOTICE:**

15 **Debbie Rouwenhorst**

16

17 **OTHERS PRESENT:**

18 **Brad Hawkins-Clark - Planning Director/Administrator, Kandi**

19 **Hall - Planner 1, and David Hargraves - Deputy**

20 **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, November 13th, 2007

4

5 **Consent Agenda:**

6 **Item 1A Darnell Lane Estates Minor Subdivision**

7 **Item 2A View Acres Minor Subdivision**

8

9 **MR. DAVID POOLE:** *The November 13th meeting is coming to*

10 *order. We've got two items on our agenda or the one item. The*

11 *minor subdivision review. There will be nothing at all on that*

12 *tonight right, Brad?*

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

14

15 **Consent Agenda:**

16 **Item No. 2 Approval of the Minutes of October 9th, 2007**

17

18 **MR. DAVID POOLE:** *Second item on our agenda is the approval*

19 *of minutes. The October 9th meeting. Do I have a motion,*

20 *gentlemen, or any omission or corrections?*

21 **MR. DON WILKERSON:** *Mr. Chairman, I make a motion that we*

22 *approve the minutes as presented.*

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

24 **MR. WILL MAUPIN:** *I'll second the motion.*

25 **MR. DAVID POOLE:** *All those in favor signify by saying I.*

□

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1 *Opposed same sign. Motion carries.*

2

3 *(Motion carries unanimously.)*

4

5 *Public Hearing:*

6 *Item No. 1 Special Use Permit #SUP-07-007*

7 *King 2070 Mining, LLC*

8

9 *MR. DAVID POOLE: Okay. We're moving on to the public*

10 *hearing portion of this meeting. First item on our agenda is*

11 *special use permit SUP-07-007, King 2070 Mining, LLC. Brad, are*

12 *you going to do it or --*

13 *MR. BRAD HAWKINS-CLARK: I will.*

14 *MR. DAVID POOLE: Will you bring us up to speed on this so*

15 *we can get going?*

16 *MR. BRAD HAWKINS-CLARK: You probably will notice,*

17 *Commissioners, on the staff report that it's not my name on*

18 *there. Kandi Hall was hired since our last meeting as a*

19 *Planner. So for those of you who haven't met her, this is her.*

20 *So we worked on these together but said you guys are not kind.*

21 *So I thought I would go ahead and do the first round so she*

22 *doesn't have to deal with you guys.*

23 *So this first application tonight is both your No. 1 and*

24 *No. 3 are related to the extraction business, an ordinance*

25 *amendment you approved a couple of months ago. So these are the*

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1 first applications to be filed under that new zoning ordinance
2 amendment. Basically, gravel pits could not be done in an A-1
3 zone. You can now do an extraction business in an A-1 zone with
4 a special use permit. So that zoning ordinance was done. Now
5 these applications have been filed. So this first application
6 is by King 2070 Mining, LLC. The applicant Bret Garrigan.
7 The site is located in the Pearl area. Pearl Road extends
8 here along the top of the north side of the site. While the
9 property does have some actual frontage on Pearl Road in a
10 couple of locations, the access to the site is not directly on
11 Pearl Road. It is kind of meandering around there through
12 property that is owned by the Bureau of Land Management. It is
13 approximately 39 acres, about 10 of which would be used for this
14 operation; 3 acres for the pit.

15 The applicant has submitted a site plan and it shows area
16 for the actual pit here at the end of the road. There's a
17 loading area and some staging area. All of that I'll let
18 Mr. Garrigan go into more specifics about the actual site there.
19 Just to show you a few other site photos to introduce you
20 to the area, this is that curvy access road that you saw in that
21 first one kind of leading up to the area of the pit. This is
22 once you get on top. So there were several site photos that
23 were submitted with the application in hard copy but I guess in
24 terms of power point that's all we have.

25 So we have provided a staff report to you that goes to the

□

7

1 Comprehensive Plan and the findings. The zoning out here is

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2 *A-1. The Comprehensive Plan designation is agriculture or*
3 *natural resources, which does anticipate some mining. In the*
4 *Comprehensive Plan, the main issue on both this one and No. 3 on*
5 *the agenda tonight, as with most of these gravel operations,*
6 *does have to do with road maintenance and the access to the site*
7 *and leaving the site.*

8 *We did have -- let's see. Did Kim make it? Yeah. There*
9 *he is. So Kim Reed, our Road and Bridge Superintendent is here*
10 *to provide some testimony and comment on these applications for*
11 *you tonight.*

12 *In Candy's staff report, the main comment on the*
13 *Comprehensive Plan to point out is related to the natural*
14 *resources and hazardous area. The economic development chapter*
15 *does support the creation of business and new employees. It*
16 *notes that in areas that are designated for, you know, the*
17 *natural resources, those kind of industries are encouraged. So*
18 *the main potential Comprehensive Plan Policy that may not*
19 *support these applications really relates to the hazardous areas*
20 *and the road, the potential road impacts that could be created*
21 *by the use of the roads with heavy trucks if they're not*
22 *properly maintained or if dust abatement isn't made.*

23 *So we have proposed conditions of approval on both of these*
24 *applications. This one tonight, on page 7 of 7 here, for*
25 *Mr. Garrigan's application, the proposed conditions are listed*

□

8

1 *there. He also does have in his application a reclamation plan*

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2 *from the Department of Lands. So he has gone to the Department*
3 *of Lands and they have reviewed the reclamation plan for the*
4 *site as to how it might be reclaimed after the mining is done.*

5 *The only other thing I think I'll point out on this one is*
6 *we did receive -- you should have gotten there tonight on your*
7 *desk some letters of support from Donald K. Lambert, Burkheart,*
8 *and Charters with the Shadow Butte Development Corporation also*
9 *put in letters of support of this application as well as the*
10 *Department of Lands Reclamation. So I think it might be*
11 *appropriate at this point -- well, afterwards, I guess if you*
12 *have comments about the letter from Kim Reed --*

13 *MR. DAVID POOLE: Yeah. I'll try to get him early on so*
14 *that the public can hear that response before they testify. It*
15 *makes sense since he's here to do that. Is that it, Brad?*

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

17 *MR. DAVID POOLE: Okay. I think the first thing we'll do*
18 *is start the hearing with this --*

19 *MR. DON WILKERSON: I have a question for Brad. Can you*
20 *tell me, by that map there, where the access road leaves Pearl*
21 *Road? Isn't that Pearl Road over there by the top right hand*
22 *corner?*

23 *MR. DAVID POOLE: We're missing a piece of Pearl Road, it*
24 *looks like, on the map.*

25 *MR. DON WILKERSON: Yeah but is that Pearl Road going clear*

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9

1 *through to the right hand edge of that?*

2 *MR. BRAD HAWKINS-CLARK: Yes.*

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3 *MR. DON WILKERSON: So right up there at the top is where*
4 *the access road starts.*

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

6 *MR. DON WILKERSON: Okay. The blue is the boundary of the*
7 *property.*

8 *MR. DAVID POOLE: The blue with the red streak on it.*

9 *MR. DON WILKERSON: Is the boundary of the property.*

10 *MR. BRAD HAWKINS-CLARK: That's Willow Creek.*

11 *MR. DON WILKERSON: That's Willow Creek. Okay. The other*
12 *one going up and down is Willow Creek also. Okay. Thank you.*

13 *MR. DAVID POOLE: So if the spokesman for the applicant or*
14 *the applicant would step forward, state your name and address.*

15 *MR. BRET GARRIGAN: Bret Garrigan, 1450 Artesian Road in*
16 *Eagle. I'm the owner, along with my wife, of the 39 acres that*
17 *we purchased from Mr. Chris Hanna, who purchased the property*
18 *less than 3 years ago from the County Commissioners on four*
19 *federal patented mining claims from Gem County. I bought the*
20 *property. I took it through Gem County Alliance Title. Marilyn*
21 *was very helpful down there. They reviewed the legal title to*
22 *the property, determined that yes there were four patented*
23 *mining claims that we have title insurance to.*

24 *When we bought it the zoning is one house per 40 acres.*

25 *When I went to see how the Comprehensive Plan was going to be*

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10

1 *arranged, Pearl was sort of off the map. They weren't going to*
2 *review any changes out there in the Pearl area.*

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3 *When I was doing my due diligence I found out that this*
4 *mining area has some very good looking rock, some very unique*
5 *rock. So I took people out there to show it to them. They said*
6 *you have landscape rock here. That is what is sitting here on*
7 *top of the soil. There is crushed salt with highly variable*
8 *colors of landscape rock. So we did our due diligence and our*
9 *engineering report. We went through the BLM and got our*
10 *easements up to speed. We went to the Army Corp of Engineers*
11 *and improved the crossing on the creek. We got it to be a 24*
12 *foot wide crossing on the creek. So we improved the ability of*
13 *even fire protection out there. Before you couldn't even get*
14 *across the creek. It was a cattle or goat crossing. Today, if*
15 *we have a fire up there or anything like that, Rick Welch at the*
16 *Gem County No. 1 Fire Department and BLM can respond and fight*
17 *fires up there if one ever did occur. Our operation is not fire*
18 *prone because it's all rock. It's just a rock. Pearl is a*
19 *historical mining district. It's in the Westview Mining*
20 *District and I'm surrounded by mining claims.*

21 *MR. DAVID POOLE: Is there no vegetation on the land at*
22 *all?*

23 *MR. BRET GARRIGAN: Very little.*

24 *MR. DAVID POOLE: There is some grass I take it, right?*

25 *MR. BRET GARRIGAN: Some grass.*

□

11

1 *MR. DAVID POOLE: Okay.*

2 *MR. BRET GARRIGAN: And that's all been addressed in the*
3 *reclamation plan in the state of Idaho, bonded.*

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4 *So what you see up in Pearl today, with other mining sites,*
5 *where they were abandoned in the past, that won't happen with my*
6 *property. I'm required by state law to bond and reclaim that*
7 *property in 30 years. Sometime between now and then I'm going*
8 *to have some very nice horse property because my property's*
9 *going to go from a rock hillside that you can't ride a horse*
10 *across to being able to have a flat nice building pad for horse*
11 *riding arenas, horse barns, and some very nice houses.*

12 *So the real key here, and if you refer to your report, is*
13 *that I have an existing mining operation that was in operation*
14 *prior to the laws changing in Gem County in July of this year.*
15 *I'm asking not to be able to run a mining operation, rock*
16 *quarry, in my existing nonconforming use. I'm asking for the*
17 *right to be able to extract gravel and to be able to deliver*
18 *gravel to Gem County and to Boise County. I actually have a*
19 *lousy gravel pit. It doesn't make really good gravel in the*
20 *conventional sense. If you want that you go on down to the*
21 *Payette Reserve or the Boise River and get all the gravel you*
22 *want. My rock fractures at a very high fracture rate. So it's*
23 *like a puzzle. It sort of binds together and the clay in there*
24 *also has the ability to act as a binder. So if you want to come*
25 *up and see my road, you will see a strong and solid road that*

□

12

1 *doesn't unravel.*

2 *I have a feeling that I'm going to have one or two of my*
3 *nice neighbors, who I know, like, and respect, talk to you about*

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4 road conditions and road safety. I share the same concerns. I
5 want to read you a letter from Bill Burkheart, a long time
6 resident up there. I echo the same things.

7 (The following was read:)

8 November 11th, 2007, from William G. Burkheart in Pearl
9 Road, Eagle Idaho.

10 To whom it may concern,

11 In regards to King 2070 Mining, LLC developing a mining
12 operation in the Westview Mining District of Pearl, detailed are
13 my concerns as a long time resident and property owner in this
14 area. I have no objection to the project being under taken by
15 King 2070 Mining LLC. However, due to an increased interest in
16 this area a safety concern has raised. There are multiple
17 vehicles that use the canyon road daily. However, the current
18 condition of the road is not safe for daily use by vehicles. It
19 is the responsibility of the County to provide safe and
20 efficient transportation through the canyon. There needs to be
21 action taken by the government to insure safety on all public
22 roads. As growth increases in the area, there is going to be an
23 increased demand for safe and efficient public road system.

24 Thank you,

25 William G. Burkheart. (End of read portion.)

□

13

1 I feel the same way. I have a feeling my neighbors share
2 the same concern that the roads, passable, usable, public roads
3 -- and my two employees that are my truck drivers are here to
4 testify as to the safety and validity to drive on those roads.

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5 *My idea is that working together we can improve the road safely*
6 *and effectively by just using a little bit of common sense,*
7 *working with Kim Reed, working with my neighbors to obtain right*
8 *of ways. Today Pearl Road is a right of use right of way. I*
9 *think you own half the road. I think the other people on the*
10 *other half own the other half. It is possible in certain areas*
11 *to expand a road to have more safe turn outs. It's passable*
12 *between two vehicles today. There's also two corners that I*
13 *don't particularly like, but working with my neighbors, working*
14 *with the County, the County Commissioners, we can effectively*
15 *modify that road.*

16 *There's rock on those two promontory points, highly*
17 *fractured, highly -- with an excavator, similar to what I have,*
18 *you can take that rock down and out and sell it. That can pay*
19 *for the straightening of that road in those areas. Today, with*
20 *my existing mining operation that's grand fathered in prior to*
21 *you guys changing the zoning laws in July, what I'm asking here*
22 *today as stated in page 1, page 2, page 3, that I be able to*
23 *sell gravel, extract gravel, and sell it to Gem County, Boise*
24 *County, and other people that are within this small area of*
25 *influence. Only where I have a transportation advantage can I*

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14

1 *actually sell some product. For me to sell gravel at six*
2 *dollars some odd cents per cubic yard -- I sell my crushed*
3 *landscape rock, decorative landscape rock for a lot more.*
4 *I'm not in the gravel business. I'm here tonight to ask*

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5 you for the ability to sell gravel to improve the road. My
6 road, my gravel, my things will work better than what we have
7 today. What we have today has a tendency to unravel just like
8 every gravel road in Gem County. It's not just Pearl. It's not
9 just the road in my area. My product will improve this area.
10 We're concerned about safety. I'm not going to do anything
11 to damage those roads. You won't find my trucks on those roads
12 if the weather and the road conditions aren't good. I can't
13 afford to tear up these roads. I won't do it if I don't have to
14 because I'm selling to companies like Avimor where we stockpile
15 this aggregate so I don't have to run everyday. I don't have to
16 run every week. If I need to shut down in the months of
17 November through February, I'm capable of doing that.

18 MR. DAVID POOLE: Okay. Can we pick it up? We probably
19 don't need quite as much detail but we do need to know the
20 information and the public needs an opportunity to speak.

21 MR. BRET GARRIGAN: So I would support my truckers safety.
22 We pay taxes. We pay registration fees. We have insurance. We
23 drive slowly. Kim Reed, if you ask him, he'll tell you what he
24 told me. When you drive a loaded gravel truck, a loaded truck
25 on a gravel road, you're actually improving the road because it

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15

1 has a tendency to pack the road. If it's empty and you're
2 driving it, it acts just like a pickup truck and a car. So in
3 effect, I'm half as damaging to the road as somebody driving a
4 pickup or a car. Bill Burkheart said if we ever find that guy
5 driving that light blue Toyota, the one that Kandi indicated,

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6 *we're looking for him because those are the guys that are going*
7 *to hit us. My truck drivers, when they testify, will tell you*
8 *that we drive those roads in the neighborhood of 5 to 10 miles*
9 *an hour. We'd like some speed limits on there and we'd like to*
10 *work with the land owners so we can get some right of way to*
11 *make the road even better. It's passable and usable today. I'm*
12 *just asking not for the right to be running a mining operation,*
13 *I'm grand fathered in for that. I'm asking for the right to*
14 *sell gravel to Gem County and to Boise County. Thank you.*

15 *MR. DAVID POOLE: Any questions for Mr. Garrigan,*
16 *commissioners?*

17 *MR. DON WILKERSON: You mention ed in your comments there*
18 *passes between two vehicles. How about two trucks? Let me*
19 *start off first, what size of trucks are you going be using?*

20 *MR. BRET GARRIGAN: The trucks that we're using are*
21 *standard 10 wheeler gravel trucks.*

22 *MR. DON WILKERSON: With a trailer with a pup?*

23 *MR. BRET GARRIGAN: Some will have pups similar to the hay*
24 *wagons with doubles or triples that my neighbors bring up the*
25 *road to feed their cattle. Similar to the trucks that my*

□

16

1 *neighbors bring up to bring up heavy equipment on. Similar to*
2 *the trucks that my neighbors bring up to bring lumber up to work*
3 *with their saddle business.*

4 *MR. DON WILKERSON: But also, like you said, the same*
5 *trucks that city transfer drives up and down the road every day.*

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6 **MR. BRET GARRIGAN:** *Correct.*

7 **MR. DON WILKERSON:** *The 10 wheelers with the pup is mainly*
8 *what you'll be using then.*

9 **MR. BRET GARRIGAN:** *I'm going to be using primarily in my*
10 *business -- I don't own a pup today. I may own a pup some day.*
11 *Most of my trips are going to go out toward Avimor but a truck,*
12 *a pup, or a transfer station vehicle, which is similar to a pup,*
13 *all track, very closely right down there. So, yes. If you need*
14 *to, good truck drivers can drive and pass there. In some areas,*
15 *no. Somebody's going to have to stop and use their horn and use*
16 *their common sense. The road is usable for two trucks to pass*
17 *with two intelligent truck drivers. The same thing is if you*
18 *have somebody's that not intelligent and not doing a good job of*
19 *driving a pickup or a car, they're going to have issues.*

20 **MR. DON WILKERSON:** *You just mentioned something about*
21 *you're going to haul toward Avimor, which is on Highway 55.*

22 **MR. BRET GARRIGAN:** *Right.*

23 **MR. DON WILKERSON:** *Spring Creek I believe. Are you going*
24 *to be going east then on Pearl Road?*

25 **MR. BRET GARRIGAN:** *We're going to go east on Pearl Road*

□

17

1 *at times when it makes economic sense to go and deliver product*
2 *in Eagle or into Emmett because we also want to be able to bring*
3 *this variable landscape rock and we'd like to put it into a*
4 *railroad car in Emmett and ship it out.*

5 **MR. DON WILKERSON:** *Okay. My other question -- the last*
6 *time I was on Pearl Road, about 3 years ago, you go out there so*

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7 far you got a base on it. You go out so far and it turns to
8 mud.

9 MR. BRET GARRIGAN: And you can't travel.

10 MR. DON WILKERSON: You can't travel.

11 MR. BRET GARRIGAN: You can not travel on that. We do not
12 intend to travel on that unless it's safe and passable because
13 City Transfer told me when I asked them if there were any weight
14 limits in Gem County, they said no. There's no weight limits in
15 Gem County but if you're a fool and you get yourself in trouble,
16 you get what you deserve.

17 MR. DON WILKERSON: Well you won't get through there if
18 it's wet but even when it's dry it's narrow; is that true?

19 MR. BRET GARRIGAN: Well, my truck drivers will testify the
20 fact that they have cars and trucks passing them on the Boise
21 County section of the road that's unimproved and on the Gem
22 County road.

23 MR. DON WILKERSON: Okay. Well, like I said it's been
24 several times and I have to tell you last time I was out there,
25 once you got beyond the gravel, I was pulling people out of the

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18

1 ditch because of that. It is narrow. Okay. So you'll be going
2 both directions. That was my question.

3 MR. BRET GARRIGAN: We're going to be going both directions
4 with our existing mining operation. We're asking for the right
5 to sell gravel in a small geographically designed area because
6 we have an advantage in our local area. I can't haul gravel any

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7 place beyond 84 miles and be cost effective.

8 MR. DON WILKERSON: One other question. Are you going both
9 directions currently with your gravel?

10 MR. BRET GARRIGAN: I haven't sold any gravel because I --
11 Brad and I have gone through this in great detail. I never had
12 the right to sell gravel. I had the right to run a mine.

13 MR. DAVID POOLE: Any other questions?

14 MR. LAWRENCE WHITSELL: How far are you having to haul to
15 Avimor? Is it less than 4 miles?

16 MR. BRET GARRIGAN: Avimor is about 9 and a half miles from
17 my pit site.

18 MR. LAWRENCE WHITSELL: Okay. So that's quite a distance
19 then from where you're located to the Emmett Highway. How far
20 is that?

21 MR. BRET GARRIGAN: The sign out there says 9 miles.

22 MR. LAWRENCE WHITSELL: You're 9 miles. So you're kind of
23 in the center. Your proposed pit is the midway between those
24 two hauls.

25 MR. BRET GARRIGAN: But Avimor -- I'm a lot closer than

□

19

1 anybody else. So that's my primary. 90% of my business is
2 going to be going for the next 25 years to Avimor.

3 MR. LAWRENCE WHITSELL: So, east?

4 MR. BRET GARRIGAN: Yeah.

5 MR. LAWRENCE WHITSELL: Where's the road base change?
6 Right at your pit or --

7 MR. BRET GARRIGAN: 3 miles from downtown. Out past

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8 *Cunningham's is where Gem County line ends. Then there's 2*
9 *miles of -- I'll be frank with you. It's terrible looking road.*
10 *I've been driving it all summer and the more we drive it, what*
11 *Kim Reed will tell you, it actually gets better with the truck*
12 *driving over it because the truck actually pacts it and pacts*
13 *it. If there's asphalt, you've got a wait limit on asphalt and*
14 *it will break up but on a road like that, the more you drive it*
15 *the more passable it gets and the better it gets in the summer*
16 *time. In the winter time all bets are off.*

17 *MR. LAWRENCE WHITSELL: Were you offering to try and repair*
18 *some of the bad corners and this sort of thing on your own or*
19 *were you wanting to do that in junction with the County or what*
20 *were you proposing there?*

21 *MR. BRET GARRIGAN: First of all, I believe in good*
22 *planning and zoning practices. That's the reason why I'm here.*
23 *For 300 dollars I get to come up and ask for the right to sell*
24 *gravel that I don't have today. Previously, I was unable to*
25 *sell gravel out of my mining operation. I'm willing to work*

□

20

1 *with my neighbors and work with the County to do whatever is*
2 *sensible so I can have a strong business to help send my kids to*
3 *college and make a living.*

4 *MR. LAWRENCE WHITSELL: And that would possibly mean*
5 *helping supply gravel, maybe some equipment time.*

6 *MR. BRET GARRIGAN: I could sell it at cost, at reduced*
7 *rate. I can work to sell some rock. I'm pretty good at selling*

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8 rock and there happens to be some pretty good looking rock on
9 some of those ugly corners that I don't like and I'm sure that
10 my neighbors don't like. I have the ability to work with people
11 to create a winning situation.

12 MR. DAVID POOLE: Okay. Any other questions?

13 MR. BRET GARRIGAN: One final thing. I have talked with
14 lots of my neighbors. I talked with Bob and Diane Hortly, Bill
15 Burkheart, Gary Burkheart, Leonard and Mrs. Piara, Gary
16 Cunningham, Howard Jenkins, and they understand personal
17 property rights and the ability to work with people.

18 My trucks will drive slow. I did have a couple of truck
19 drivers that weren't under my direct control because what I did
20 I bartered about 80,000 dollars worth of rock to build my road.
21 If you ask folks here, they'll tell you that's a good looking
22 road out there. I probably have the best looking road in that
23 part of Gem County. They hauled my rock off. I didn't do a
24 real good job of saying you make darn sure that when you drive
25 by XYZ's house that you go real slow. So they went 20 miles an

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21

1 hour when they should have been going 10. You'll talk to my
2 truck driver employees and they'll sort of tell you what the new
3 rules are.

4 MR. DAVID HARGRAVES: How many truck loads a day are you
5 planning or can you give us an estimate?

6 MR. BRET GARRIGAN: Yeah. We did an estimate in our
7 application. We feel that it would be somewhere around eight to
8 nine truck loads on a typical day when we're in production.

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9 *Some days it will be zero. Some days it will be eight to nine.*
10 *Some days if we get a big load, we might be able to haul out*
11 *ten. At the present time I own one truck. I have one truck*
12 *driver and one relief driver if he's sick. Hopefully, someday I*
13 *hope to buy a second truck.*

14 *MR. DAVID POOLE: So the term average is going to be a*
15 *tough one to come onto; is that what you're saying? Times of*
16 *the year you're not going to haul anything it sounds like.*

17 *MR. BRET GARRIGAN: No. I sell crushed landscape rock.*

18 *MR. DAVID POOLE: Okay. I understand that. Eight to ten*
19 *loads. That's where we're trying to go from here. Let's not*
20 *keep going on and on.*

21 *MR. DAVID HARGRAVES: What is a truck load? How much will*
22 *that weigh?*

23 *MR. BRET GARRIGAN: A truck load will weigh -- it can weigh*
24 *anywhere from 46,000 pounds to 105,000 depending on how many*
25 *axles you've got on it and if you're carrying a truck and a pup.*

□

22

1 *MR. DAVID POOLE: Roughly, they're going to be legal loads*
2 *is what you're saying.*

3 *MR. BRET GARRIGAN: I have a scale up there.*

4 *MR. DAVID POOLE: So as a requirement, as far as the load*
5 *capacity by the County; you could manage that?*

6 *MR. BRET GARRIGAN: Certainly. I have a certified scale.*

7 *MR. DAVID POOLE: Okay. Thank you.*

8 *MR. LAWRENCE WHITSELL: How many other residents share this*

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9 road with you? How much travel is there besides what you're

10 proposing with your trucks?

11 MR. BRET GARRIGAN: On a given day you might see 56 cars,

12 trucks, pickup trucks go up and down that road. On a Saturday

13 you might see 10, 15. Some days you might see just Mr.

14 Burkheart going up the road. You might see Jim Bean's white

15 pickup truck cruising around the neighborhood and the postal

16 carrier. You might see three on a lot of days. You might see a

17 Simplot truck up there. You might see another semi truck. You

18 might see a hay truck. You might see our trucks up there. I

19 understand Mr. Bean takes his child to school every day down the

20 hill. So that would be a round trip car trip too.

21 MR. DAVID POOLE: Two round trips.

22 MR. BRET GARRIGAN: Yeah.

23 MR. DAVID POOLE: Okay. Any other questions?

24 MR. LAWRENCE WHITSELL: Thank you.

25 MR. DAVID POOLE: Thank you very much, sir. Okay. At this

□

23

1 time, I think we'll ask for the County Road Commissioner to come

2 up and explain the letter he has in his packet, give us a little

3 insight on what the County's requiring. Kim, if you would.

4 MR. KIM REED: Kim Reed, County Road Department, Director

5 of the Road Department. I don't recall everything I put in

6 there but I've been talking back and forth with Bret on this

7 project for the last few months. I think maybe the only concern

8 I have about it is just the safety of the roadway. It's so darn

9 narrow and there's just lots of places that two cars aren't

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10 going to pass on it. It's a one-way road in a lot of spots. If
11 I had to classify the road, that would be my only concern.
12 We've been up there a thousand times and there isn't a lot
13 of traffic on it but you want to be careful going up and down
14 it. The road base is pretty much sand and granite. 30 years
15 ago we hauled some old mine tailings in there, put about 8
16 inches on it and it's still in there. I see evidence of it
17 every once and a while. It needs a little road mix once and a
18 while but other than that, from the town Pearl to the west, it's
19 not too bad as far as surface is concerned. We put a little pit
20 run -- the cunning hams hauled some in to us and we layed it
21 with motor grader and layed it down, but it's only about 8, 10
22 inches deep and it's all right in the summer time, when it's
23 frozen, stuff like that. It's just not much of a road. That's
24 my only concern is the safety of it.
25 I think Bret's been pretty good about if there happened to

□

24

1 be a soft spot develop, that sort of thing, dust, he'll take
2 care of it. That's why I told him 5, 10 miles an hour doesn't
3 matter. If there's a dust problem, it needs to be taken care
4 of. If you can drive a drive a truck down the road for 20 days
5 in a row and never raise any dust, why fine. If you've got to
6 have a water truck behind every truck or in front of it, well
7 that's what it will have to take. I think Ada County came up
8 with that one. It's just the safety of the road and these
9 mines. As far as the truck being easier on a road then a sedan,

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10 statistics are one loaded 10 wheel dump truck does 6,000 times
11 more damage than a sedan in the road structure. Those are
12 pretty high figures. That's what the State of Idaho and the
13 Association of America has come up with. I don't really see
14 that that is going to be a problem with that road because he's
15 assured me that if there is a problem with the structure,
16 they'll stop hauling and help us with materials if need be. I
17 don't want it to come to that just for the fact that it costs us
18 75 dollars an hour to run our truck and pups if I have to fix
19 anything. That's not counting the motor graders and so on. So
20 we don't want to see anything go wrong with the roads.
21 As far as having a pit in that area, I welcome that when
22 it's our turn to use it. The only time we're working on the
23 roads is to improve the roads. I'd hate to run the trucks in
24 soft weather or anything. We're not out there to make any
25 money. We're just out there to try to repair the roads.

□

25

1 Having that pit in that area, if it does have the clay in
2 it that Bret says it does, that's not good for roads. Clay is a
3 mover of water and it's bad. I hope that it doesn't have that
4 much clay as he's talking about in it, but on the same hand, I
5 hope there is a good source of rock for us in that area. I'd
6 like to see it but it's the safety of the road more than
7 anything else. Just the position I've been put into I feel like
8 I have an obligation to say something about that. I don't want
9 to see folks get hurt.
10 There's getting to be a lot more traffic up there. When

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11 *there's a little snow I think anybody in Eagle has to come up*
12 *there and try to run down hills on a toboggan. It gets pretty*
13 *wild. With that sort of thing, I'm sure Bret Garrigan would be*
14 *real cooperative as far as safety on the roads and maybe not be*
15 *operating when it's ice floor up there. We do occasionally take*
16 *a sander up there with that type of operation and if they do*
17 *decide to haul when it's slick, there will just be more of a*
18 *cost to the County to have them go up there and sand it to make*
19 *it safe. Any time there's more action on a road there's more*
20 *cost. I think he's more than willing to help us but even saying*
21 *that to help us we've got to be there at 100 dollars an hour for*
22 *our motor grader, 75 dollars an hour for our trucks and pups,*
23 *and another 50 bucks an hour for our roller, and it just goes on*
24 *and on. You just can't believe the cost of things. That's one*
25 *of my other concerns is just the cost of maintenance whether*

□

26

1 *Bret's willing to help or not. He's shown some real*
2 *cooperation. He's been real cooperative to work with. I don't*
3 *see a problem there. It's just that much activity on that*
4 *little narrow road, I believe it's going to be a problem. Maybe*
5 *not a big one. There's just not that many people go up there*
6 *but that's just about all I have to say about it.*
7 *MR. DAVID POOLE: Questions, Commissioners, for Kim?*
8 *MR. LAWRENCE WHITSELL: Kim, specifically, is there*
9 *something that you think we should be doing to the road to help*
10 *the safety issue?*

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11 **MR. KIM REED:** *Well, I'd like to widen it out about another*
12 *12 feet.*

13 **MR. LAWRENCE WHITSELL:** *Just widen the whole road then.*

14 **MR. KIM REED:** *Yeah. That would be the best. Other than*
15 *that, it's fairly solid road. There's materials there if a guy*
16 *were to do that, to build the road with. It doesn't seem to be*
17 *a big environmental shove on what you do on there. I think it's*
18 *becoming more so. I mean, the longer a person waits to improve*
19 *a roadway, especially with a creek going along side it, there's*
20 *going to be some real issues. You're not just going to side*
21 *cast if off in that creek. That's kind of what happened when*
22 *rocks would come off the side of the hill. You'd just reach out*
23 *there and pull them off with a motor grader and kick them off*
24 *the side. One of these days they're going to throw you in jail*
25 *for doing that. You're going to pick it up and carry it to the*

□

27

1 *site.*

2 *As far as what Bret could help me with on it, I think he's*
3 *more than willing but he's not the land owner through there.*
4 *When he first started this project he was more than willing to*
5 *do anything. I said that's great but you and I aren't the land*
6 *owners and theres nobody going to give that to you. They might*
7 *not even sell it to you. I don't care how much money you've*
8 *got.*

9 **MR. LAWRENCE WHITSELL:** *To get your right of way.*

10 **MR. KIM REED:** *Yeah. If you've got the right of way, you*
11 *have to build a road at 300,000 dollars every half a mile. I*

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12 *don't see that you can build wide outs and you can do this and*
13 *that to make it more safe. All that costs a lot of money.*

14 *MR. LAWRENCE WHITSELL: If you were to look into your*
15 *crystal ball and project ahead, when do you think the County's*
16 *going to have to address this issue because of the County's*
17 *needs?*

18 *MR. KIM REED: Because of the County's needs?*

19 *MR. LAWRENCE WHITSELL: Yeah. The extra traffic building*
20 *up in that area, what have you.*

21 *MR. KIM REED: Well, I don't know. It depends on Planning*
22 *and Zoning, how much they open up there, what it's going to cost*
23 *the County. We may get a little help with different fees and*
24 *things that are going on. It's going to take more people. It's*
25 *going to take a lot of time. If you've got the money and you*

□

28

1 *have to have more work force, it's just a never ending. I hope*
2 *it never does anything. It's just fine the way it is as far as*
3 *I'm concerned, but it's coming.*

4 *MR. DAVID POOLE: Any other questions?*

5 *MR. WILL MAUPIN: How many miles, feet or whatever of that*
6 *road do you think would need to be improved to get it to the end*
7 *of the County's jurisdiction, from the point of an acceptable*
8 *safety road to the end of the County's jurisdiction?*

9 *MR. DAVID POOLE: Going east or --*

10 *MR. WILL MAUPIN: Yeah. Going east.*

11 *MR. KIM REED: Going east?*

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12 **MR. WILL MAUPIN:** *From this side of the site to the eastern*
13 *border of the County here. I was understanding it was*
14 *basically, from good road to the pit, it was about 3 miles where*
15 *the road is questionable.*

16 **MR. KIM REED:** *Well from where I understand it said from*
17 *your driveway, Bret --*

18 **MR. BRET GARRIGAN:** *It's 3 miles to the county line.*

19 **MR. KIM REED:** *-- to the east.*

20 **MR. BRET GARRIGAN:** *To the county line east and then it's 2*
21 *miles to Boise.*

22 **MR. WILL MAUPIN:** *2 miles to the other one. Okay.*

23 **MR. DON WILKERSON:** *Highway 55.*

24 **MR. KIM REED:** *That just varies. From his driveway to the*
25 *town of Pearl the structure of the road is pretty heavy. It's*

□

29

1 *got a lot of rock in it. It's got a lot of granite in it. It's*
2 *mostly narrow. There are some wide outs in it. From the town*
3 *of pearl up, that's extremely narrow to Cunninghams, which is*
4 *just a short distance, but it's all granite. I've tried to dig*
5 *into that bank and it's granite rock about the size of this*
6 *courthouse and it would have to be blasted. From Cunningham's*
7 *on to the county line it's just adobe full of big rocks. As far*
8 *as widening out, if you could get the right of way, it wouldn't*
9 *be a big job. It would all have to have a base in it. I would*
10 *guess that 3 miles would probably be in the neighborhood of a*
11 *million dollars if you were going to build a road to standards.*
12 *Just to build an old country road with a foot and a half of base*

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13 *in it, 30 feet wide, with a little bit of shoulder, and you need*
14 *12 foot lanes is what we're after, and to straighten it up,*
15 *culverts and that, probably it would be a hundred thousand a*
16 *mile. That would just make it a country road a truck could*
17 *drive on.*

18 *MR. DAVID POOLE: A gravel road is what you're talking*
19 *about.*

20 *MR. KIM REED: Yeah. It would be a year round road.*

21 *MR. DON WILKERSON: In your opinion, Mr. Reed, would it be*
22 *safer if the traffic all went east to Highway 55 rather than*
23 *back west to Highway 16? I remember that through the town of*
24 *Pearl it is narrow.*

25 *MR. KIM REED: It is, but it's just that one solid granite*

□

30

1 *area. If you were to go east, it's a little flatter and it's*
2 *not as steep. It's all mud.*

3 *MR. DON WILKERSON: Right. Is that Boise County?*

4 *MR. KIM REED: That's mostly Boise County. We used to*
5 *maintain all that but we're just going to the county line now.*
6 *It's all real narrow. Then there are some pretty heavy cuts and*
7 *fills. It's nasty. I don't know which would be the best. If*
8 *you were going slow, I think I would rather go to Highway 55 as*
9 *far as vision. Coming down the hill from Bret's, if you were*
10 *going down the hill, going really slow all the way through*
11 *there, and some wild person was coming up the road and was on*
12 *the wrong side of the road and head-on'd you, it would be a*

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13 *pretty easy pull from his place down the road. Once you're down*
14 *out of the canyon, it's a pretty good go. It's not too bad of*
15 *road.*

16 **MR. DON WILKERSON:** *Okay. One other question. In your*
17 *letter here, Item 1, are you suggesting that they provide dust*
18 *suppression within the pit itself?*

19 **MR. KIM REED:** *Not within the pit. I was concerned about*
20 *the traveling.*

21 **MR. DON WILKERSON:** *On the County road?*

22 **MR. KIM REED:** *On the County road.*

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

24 **MR. DAVID HARGRAVES:** *You're talking about Pearl Road?*

25 **MR. KIM REED:** *Yes.*

□

31

1 **MR. DAVID HARGRAVES:** *And the access road or just Pearl*
2 *Road?*

3 **MR. KIM REED:** *Pearl Road.*

4 **MR. DAVID POOLE:** *Yeah. The access is BLM, or the bulk of*
5 *the access. Is it BLM?*

6 **MR. KIM REED:** *I'm not sure. I just really wasn't*
7 *concerned with that. There aren't any residents on that road.*

8 **MR. DAVID POOLE:** *It's not under your authority anyway is*
9 *what your saying.*

10 **MR. KIM REED:** *Right.*

11 **MR. DON WILKERSON:** *And it's private.*

12 **MR. KIM REED:** *And it's private.*

13 **MR. DAVID POOLE:** *Okay. Is there anything that we've*

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14 missed that you think we might need to know? Is there something
15 that we should ask for specifically in the use permit? You have
16 some suggestions? You want to just go by these suggestions?

17 MR. KIM REED: Yes.

18 MR. DAVID POOLE: Okay. Thank you, Kim.

19 Sorry it's taking so long but we need to lay the ground
20 work. Now we have the opportunity for the public to speak.

21 Those that are in favor, if you would like to step forward,
22 state your name and address.

23 MR. JIM HOOVER: My name is Jim Hoover. I live in Nampa
24 and I work for Mr. Bret Garrigan driving truck and, ladies and
25 gentlemen, that road is a bad road in places but it can be

□

32

1 driven safely. Any road can be driven safely with common sense.

2 Now we're not going to go up there -- I don't want to tear
3 that road up any more than anybody wants to see it tore up. I'm
4 not going to drive that road and get hurt because I'm too good
5 looking to get hurt. I only say that because I am good looking.
6 Bret Garrigan is one man that is real down to earth on safety.
7 He pushes safety a lot and he don't want nobody to get hurt. He
8 don't want to see nobody hurt. He would do everything in his
9 power to make sure that nobody gets hurt up there on that road.

10 If he says he will help improve that road, gentlemen, you can
11 put it in the bank because he will do that. He is one of the
12 best men that I have ever worked for and I have worked many of
13 years for a lot of people driving truck. I have worked with no

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14 better man. If that man says he will do something, he will do

15 it. That's all I have to say. Thank you.

16 MR. DAVID POOLE: Any questions for Mr. Hoover from the

17 Commissioners? Thank you very much. Further input in favor

18 from the public.

19 MR. DELRAY KRAMER: My name is Delray Kramer. I got a

20 letter from K and S Distributing that supports the condition of

21 the use permit that King 2070 Mining, LLC natural resource

22 mining operation for a gravel pit in Pearl, Idaho.

23 (The following was read:) Our business relates to the use

24 of the public road such as logging, mining, and farming. Please

25 protect their rights. Dawn L Cook, president of K and S

□

33

1 Distributing Company. (End of read portion.)

2 MR. DAVID POOLE: Thank you very much. Any questions for

3 Mr. Kramer? Thank you, sir. Further public input in favor.

4 Public input in the neutral position. State your name and

5 address if you would please.

6 MR. JIM BEAN: My name is Jim Bean, 8000 Pearl Road, Eagle

7 address. I live at pearl. It's an eagle mailing address. I'm

8 a firm believer in the private property rights but my main

9 concern is the safety. I've had this property up there, the

10 start of my property, for 50 years. I own the property on both

11 sides going up or down the creek towards 16. It is a dangerous

12 road. It's been mentioned that I haul hay in to my cattle. I

13 do approximately 10 loads a year. That would be generally in

14 the fall hay crop. I do bring up approximately that much

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15 *tonnage of hay. Also, I could have a grain truck coming a*
16 *couple of times a year, which would be a 10 wheeler from Western*
17 *Stockmans. We just got a small operation. So I'm aware of the*
18 *safety. That's my main concern is the safety. I do, most of*
19 *the time, if the time of the day is right, I use a pilot car or*
20 *my pickup ahead of the hay truck to be safe. Most of you,*
21 *gentleman, have been up there.*

22 *I, like one of the gentlemen mentioned, haul my grand kids*
23 *to school. My son lives on the ranch below me. We've got two*
24 *operations. It's not only my grand kids, it's anybody's.*

25 *Something I don't know if we've all considered is the*

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1 *County, at this time, for many years, in my opinion, has been*
2 *inviting tourists and local people, mostly elderly people, that*
3 *do make that trip. I'm talking about our sign on top of the*
4 *hill. It's been one of your attractions. A lot of people do*
5 *come there. Of course, Pearl is pretty well destroyed but they*
6 *still do come. So that's another traffic. Those people are*
7 *traveling slow. They're of no danger. They're all enjoying*
8 *themselves and so forth and so on, but that's my main concern.*
9 *That's the only thing I can think of.*

10 *It's not a road conducive to a heavy semi traffic. I think*
11 *your go-to man has stated that. At the present time, I have no*
12 *complaints with the way the men have been managing the road.*
13 *It's washboardy as heck and so forth and so on. I've never even*
14 *asked the road be graded. A lot of times the road is only*

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15 *graded to the bottom of the canyon. I have no complaints about*
16 *that but with more heavy traffic it will have to have some more*
17 *work. At the present time, I think your men would say that*
18 *there's not a lot -- well, I shouldn't say a lot of money*
19 *because any little dab, like he says, costs a lot of money. No*
20 *graders come up the hill. Bear in mind, I'm not complaining*
21 *about that. I'm happy the way things are and I know things will*
22 *change. My main concern is just the safety.*

23 *MR. DAVID POOLE: Questions for Mr. Bean?*

24 *MR. LAWRENCE WHITSELL: Do you have any suggestions on how*
25 *that can be made safer? Pilot car, widen road, make it a four*

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35

1 *lane highway, but yeah. Do you have any?*

2 *MR. JIM BEAN: Other than that, there's no magic answer to*
3 *it guys.*

4 *MR. LAWRENCE WHITSELL: You run pilot cars with your hay*
5 *trucks then?*

6 *MR. JIM BEAN: Most of the time I do. Yes. That's all,*
7 *are 10 loads a year. I haul in about 400 ton of hay a year.*

8 *MR. LAWRENCE WHITSELL: Just to warn people that you've got*
9 *a big truck coming around a blind corner?*

10 *MR. JIM BEAN: Yeah.*

11 *MR. LAWRENCE WHITSELL: Thank you.*

12 *MR. DAVID POOLE: Any other questions? Thank you, sir.*

13 *MR. JIM BEAN: Excuse me, and I've been doing that for many*
14 *years. I don't want to see somebody hurt. There's a lot of --*
15 *I don't know if you guys know it, but a lot of cars go in there*

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16 *anyway and a lot of that is foolishness. The fact is they're in*
17 *there. We've been lucky nobody's been seriously hurt, to my*
18 *knowledge. So thank you very much.*

19 *MR. DAVID POOLE: Thank you, sir. Further neutral input*
20 *from the public.*

21 *MR. MICHAEL WEEGAN: Good evening folks. My name is*
22 *Michael Weegan. I live at 6920 Pearl Road. Anyone entering the*
23 *Pearl area from Gem County has to pass my home. So I'm in the*
24 *cat-bird seat to watch what's gone on for the last 9 years. The*
25 *trip totals and car traffic on that road have easily quadrupled*

□

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1 *since I've been out there. I'd say it's 5 to 6 cars per hour*
2 *and you can double that in a weekend.*
3 *Here's an element that hasn't been put forth yet. I have*
4 *two concerns. One is safety. One is road condition. I*
5 *probably call Mr. Reed's office more than any resident out there*
6 *because I use it for travel. I want to have safe travel for my*
7 *business. There's a lot of folks that come from the southern*
8 *part of Canyon County, Ada County, etc., that use that as a*
9 *short cut on their way to Highway 55. I've watched this*
10 *increase over the years. So now we have pickup trucks, sedans,*
11 *all kinds of different trucking vehicles using that road. So*
12 *the road is under constant wear. It used to be that Mr. Reed's*
13 *team could come out and grade the road and it would last about 3*
14 *weeks in a decent condition. Recently, it's 2 or 3 days and*
15 *it's just tore up. I know hunting season contributes to that*

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16 *but there's a lot more vehicles on that road. It's very narrow*

17 *at the entrance to the canyon below.*

18 *I have no problem with Bret's operation. I'm in an*

19 *operation myself but safety is a concern based on the condition*

20 *of the road and it's potential to deteriorate more often than in*

21 *the past. I don't know if the County has means to address that.*

22 *I think it was already put on the table. What I would like to*

23 *see is the County work with the property owners in that area and*

24 *Mr. Garrigan himself to improve that road to make it safer.*

25 *There are places that aren't very safe because it gets a lot*

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37

1 *more use than a lot of you folks sitting in this room would even*

2 *believe. If you could sit at my home some day on a weekday or a*

3 *weekend and just watch it, it would blow your mind. You would*

4 *think you were on Highway 16 or Highway 55. There's that much*

5 *use. Some of it's the people coming up to see what's left of*

6 *Pearl, but a lot of it are people just using the road that have*

7 *found a different way. They didn't want to go all the way into*

8 *Eagle just to get into Nampa or something like that. We have*

9 *had some near misses with some vehicles on the road, not*

10 *necessarily associated with Bret's operation, just there's no*

11 *speed limits. That's another thing I'd like to bring up.*

12 *There's no posted speed limits once you hit the gravel. I*

13 *don't know if anyone in this room, perhaps your legal person*

14 *might know, I don't know what the legal speed limit is. I've*

15 *asked sheriffs. I've had one sheriff say 50, which I think is*

16 *ridiculous on a gravel road. I've had another one say 25, but*

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17 *there's nothing posted. I think that might help some people*
18 *from wearing and tearing the road. There's a lot of people that*
19 *come up there and just joy ride and tear the roads up right*
20 *after that mans crew has gone out and done a good job to put it*
21 *together. I'm rambling on a bit but I guess if you catch my*
22 *point, it's safety and road condition.*

23 **MR. DAVID POOLE:** *Any questions from the Commissioners?*

24 *Thank you, sir.*

25 **MR. MICHAEL WEEGAN:** *Thank you.*

□

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1 **MR. DAVID POOLE:** *So that's a neutral is it?*

2 **MR. MICHAEL WEEGAN:** *That's a neutral.*

3 **MR. DAVID POOLE:** *Further input from the public neutral.*

4 **MR. JAY STILLWELL:** *Jay Stillwell, 3716 Highway 16, Eagle.*

5 *Our main concern, our family, was on from Pearl Road up to the*

6 *pit because we have 255 acres to the south up on top of the*

7 *ridge. We've had kind of a right of use access to our 255*

8 *acres. That ground has been in our family for probably at least*

9 *60 years. So our main concern was that we would still have that*

10 *right of use to get on up to our property. At this time, we've*

11 *been renting that ground to Jim Bean to run some cows on that,*

12 *on our property. So he uses that road to haul salt and check*

13 *his cattle and stuff. So that was kind of our main concern.*

14 **MR. DAVID POOLE:** *Okay. Questions, commissioners, for*

15 *Mr. Stillwell?*

16 **MR. DON WILKERSON:** *Just to clarify, you're still talking*

17 *about Pearl Road.*

18 *MR. JAY STILLWELL: Well no, actually.*

19 *MR. DAVID POOLE: The private road.*

20 *MR. JAY STILLWELL: Yeah.*

21 *MR. DON WILKERSON: The private road through his property.*

22 *MR. JAY STILLWELL: Yes.*

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

24 *MR. DAVID POOLE: Thank you, sir.*

25 *MR. JAY STILLWELL: Okay. Thank you.*

□

1 *MR. DAVID POOLE: Further neutral input on this special use*
2 *permit. Those from the public that are opposed to this special*
3 *use permit. If none, this is an opportunity, Bret, for you to*
4 *rebut anything that you may want to. It's getting late. Let's*
5 *make it as short as you can. We do have a couple more after*
6 *you.*

7 *MR. BRET GARRIGAN: Just simply, I look forward to creating*
8 *a better community, a winning situation by being able to extract*
9 *gravel and have gravel available that I can manufacture to Kim's*
10 *specifications. I'm going to have to get somebody like Mr. Hall*
11 *or Mr. Rambow up there to get the job done, but we do have the*
12 *ability to improve the community up there by working together.*
13 *I think everybody wants a better community. I'm one of them. I*
14 *look forward to expanding my personal property rights to improve*
15 *the community and being a productive member up there. Thank*
16 *you.*

17 *MR. DAVID POOLE: Any further questions for Bret,*

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18 *Commissioners?*

19 *MR. DON WILKERSON: Just a couple. I've got my notes here.*

20 *You mentioned about possibly your operation would run from March*

21 *to November because does the county plow that road clear through*

22 *to highway 52 during the winter time?*

23 *MR. BRET GARRIGAN: No.*

24 *MR. DON WILKERSON: Okay. I didn't think they did. So if*

25 *we put a restriction on the months of operation, does that cause*

□

40

1 *you any heartburn?*

2 *MR. BRET GARRIGAN: Yes, because if it's City Transit,*

3 *their theory of operation is such that says if you're stupid*

4 *enough to get yourself in trouble, get yourself stuck and do*

5 *something stupid, it's your own darn fault. So in this country*

6 *I believe that if I have the ability to drive over a frozen road*

7 *and my two truck drivers and I are willing to risk our*

8 *investment, our resources to drive over a public road if it's*

9 *safe to do so, if Kim wants to tell me not to do it, I won't do*

10 *it. I'll even ask permission to go if I need to go. If there's*

11 *a situation that says it's okay to go but only when it makes*

12 *sense to go --*

13 *MR. DON WILKERSON: Well, my concern is not so much you're*

14 *able to do your operation and whether Mr. Reed says it's okay to*

15 *go, it's those other people driving that road during icy*

16 *conditions that's my concern. Do you cover your loads?*

17 *MR. BRET GARRIGAN: Do we cover our loads?*

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18 *MR. DON WILKERSON: Right.*

19 *MR. BRET GARRIGAN: No. We don't cover our loads because*
20 *our loads of this rock is so heavy it has no chance to fall off.*

21 *It is rock, which is anywhere from a half inch to 2 inches.*

22 *MR. DON WILKERSON: Until everybody has lost a windshield*
23 *when they went by a truck. Okay.*

24 *MR. BRET GARRIGAN: No, but my rock doesn't fly off because*
25 *it's heavy.*

□

41

1 *MR. DON WILKERSON: Okay.*

2 *MR. BRET GARRIGAN: But if I have to, if you give me the*
3 *permission and the right to haul gravel in this 4 mile area, I*
4 *will tarp the trucks.*

5 *MR. DAVID POOLE: Nobody else does.*

6 *MR. WILL MAUPIN: But you do own a scale and walk around*
7 *the truck and berm your load.*

8 *MR. BRET GARRIGAN: Absolutely. Our trucks are inspected.*
9 *We sweep our scale. We sweep our trucks. You bet.*

10 *MR. WILL MAUPIN: That's generally where those rocks come*
11 *from; not inside the load. They're on some outside surface of*
12 *the truck.*

13 *MR. BRET GARRIGAN: Absolutely. We've got brooms on the*
14 *scale house. Come on up. I run a really good operation.*

15 *MR. LAWRENCE WHITSELL: Mr. Garrigan, your biggest concern*
16 *is safety, obviously.*

17 *MR. BRET GARRIGAN: Yes.*

18 *MR. LAWRENCE WHITSELL: Is there any merit to pilot cars?*

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19 *Would that have any benefit to you? Is that practical?*

20 *MR. BRET GARRIGAN: No. We drive on those roads 5 to 7*
21 *miles an hour. If somebody hits us, they're the ones that are*
22 *going to be at fault. I would like to have a speed limit there*
23 *so if somebody hits me, I can at least go show them that they*
24 *were traveling to fast.*

25 *I'm not going to be driving our vehicles in an unsafe*

□

42

1 *environment. That road is slick. These guys know it. When the*
2 *sun doesn't hit that road, because the sun doesn't hit the road*
3 *thin winter times, there's some spots that look pretty good but*
4 *there's some spots that look icy. We're not going anywhere near*
5 *there. I'm not going to take my 80,000 dollar truck or my*
6 *10,000 dollar Peterbuilt and risk his help for my help. We*
7 *don't need it.*

8 *MR. LAWRENCE WHITSELL: What speed limit would you like to*
9 *see in there?*

10 *MR. BRET GARRIGAN: I'd like to see 15 miles an hour for*
11 *cars and pickups. I'm not the problem. I have a legal right to*
12 *run those roads. I want to help build the community. I want to*
13 *get a winning situation. I would like to see a speed limit and*
14 *an occasional cop car, because it is a nice little drive out*
15 *there, sit down and give a ticket or two. They aren't going to*
16 *give them to me because my trucks are going 5 to 7 miles an hour*
17 *both directions. It's a slow pull. Then we don't break up*
18 *those trucks either because they cost a lot of money to replace.*

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19 **MR. DON WILKERSON:** *One other question. The road is plowed*
20 *between Highway 16 and your operation. It's just not plowed to*
21 *Highway 55; is that a true statement or not?*

22 **MR. BRET GARRIGAN:** *Yes. It is plowed for snow but it is*
23 *the last one probably in the county to get taken care of.*

24 **MR. DON WILKERSON:** *Okay, but it is plowed. So you have*
25 *access from your location to Highway 16 year round then?*

□

43

1 **MR. BRET GARRIGAN:** *Yes. Year round.*

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

3 **MR. BRET GARRIGAN:** *And only if it is extremely safe to*
4 *take a loaded truck down there would I go down. I'm not going*
5 *to go down on anything that causes my insurance rates to go up.*
6 *If I stockpile, I don't need to be in a certain spot at a*
7 *certain time.*

8 **MR. DAVID POOLE:** *Okay.*

9 **MR. BRET GARRIGAN:** *Thank you.*

10 **MR. DAVID POOLE:** *Thank you. We'll close the public hearing*
11 *portion of this meeting and bring it before the Board.*

12 **Gentlemen,** *any of you have any ex parte communication, site*
13 *visits, conflict of interest, any of that? If not, discussion*
14 *among the Board Members, Don?*

15 **MR. DON WILKERSON:** *I'm going to pass for right now.*

16 **MR. DAVID POOLE:** *Pass for right now. Will can start at*
17 *the other end.*

18 **MR. WILL MAUPIN:** *I guess my questions would be for David*
19 *or somebody sitting up there in the bleachers. If we were to*

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20 *approve, what does that do to the County's liability on the*
21 *safety of that road? Is there a connection there?*

22 *MR. DAVID POOLE: That sounded like a Dave question,*
23 *doesn't it?*

24 *MR. DAVID HARGRAVES: The County does have some kind of*
25 *obligation to keep the road maintained. I think that's what*

□

44

1 *you're looking at. The Road Department says it's going to cause*
2 *more maintenance. More maintenance is going to be required. So*
3 *theres a burden on the County to pick up the cost of that*
4 *maintenance.*

5 *MR. WILL MAUPIN: Maybe I should have asked Kim this but is*
6 *there a liability because the road doesn't meet some kind of*
7 *break up limit or axle limit?*

8 *MR. DAVID HARGRAVES: I don't know what those standards*
9 *are.*

10 *MR. WILL MAUPIN: Okay.*

11 *MR. LAWRENCE WHITSELL: No comment.*

12 *MR. DAVID POOLE: No comment from Commissioner Whitsell.*

13 *MR. DON WILKERSON: It sounds like our main concern is*
14 *safety and condition maintenance of the road. This has come*
15 *before us again and the situations where we were concerned about*
16 *the conditions of the road and maintaining the road. This is*
17 *probably to be referred to Brad and David, how about some type*
18 *of mitigation or bonding that the applicant provides to help pay*
19 *for maintaining this road? I know you're looking at something*

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20 *through the County Commissioners but that's on new construction.*

21 *Like Mr. Reed said, sure Bret's been good about doing it but*

22 *things could change. So he's out there spending maybe 200*

23 *dollars an hour fixing pot holes or fixing soft spots and maybe*

24 *we ought to look at some type of mitigation. A hundred*

25 *thousand, two hundred thousand, half a million dollars bonding*

□

45

1 *to help pay for road maintenance if this operation causes*

2 *problems.*

3 *MR. DAVID HARGRAVES: I was thinking of the same thing*

4 *during this hearing. It's important to make sure that any kind*

5 *of mitigation that you require is justified by the amount of*

6 *impact that his operation is going to have. You've heard*

7 *testimony that there's other trucks that run up and down it. We*

8 *need to be careful to tailor whatever mitigation to whatever*

9 *impact comes from his operation. That could be -- I don't know*

10 *how to do that. That could be tough.*

11 *MR. DAVID POOLE: Obviously there's going to be more impact*

12 *if you're going to sell more product. There's going to be more*

13 *impact because there's more vehicles traveling there. We can't*

14 *seem to come up with any actual numbers on that with an*

15 *exception maybe of 8 loads a day. So using those kind of*

16 *numbers, suggesting back to somebody that should have a general*

17 *idea would be Mr. Reed to what increased impact is that going to*

18 *have in his Road Department, in the dollar value. What you do*

19 *is we come up with that number, we suggest that number be put up*

20 *in the form of a bond that can be utilized for the maintenance*

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21 *of the road. If it doesn't work after that first year, we've*
22 *got to leave room to make it change up or down. It's going to*
23 *have to be flexible. We got to have something there to make*
24 *private enterprise available and still the public not be*
25 *burdened with the extra cost.*

□

46

1 *MR. DAVID HARGRAVES: Mr. Chairman, I might add that you*
2 *could build that into your conditions. After a year the*
3 *applicant can come before the Commission again to review that*
4 *and take in more information. You can have some kind of expert*
5 *testify about the impact of the road or whatever.*

6 *MR. DAVID POOLE: Okay. Well I think we've got more of*
7 *these coming up and I think we need to be finding a way to make*
8 *it happen. I'm not certain that tonight I personally am*
9 *prepared to come up with that kind of a number. I think we've*
10 *got some people here that could probably make that happen by*
11 *next meeting. I think it's just a little premature to try to do*
12 *that now because that's not my expertise.*

13 *MR. WILL MAUPIN: Could we base it on a trip?*

14 *MR. DAVID POOLE: Well, I think we need to do that. If we*
15 *could get some numbers from the engineers or Kim or somebody so*
16 *that we know there's going to be some added maintenance because*
17 *of the --*

18 *MR. WILL MAUPIN: No, I agree. I'm not one to restrict*
19 *peoples use of their land and private enterprise. I am, on the*
20 *other hand, concerned with safety and the impacts of that road*

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21 to all the other property owners that use it. So if I had to
22 say anything that would really be why I would like to see
23 something like that put in place. I agree with you.

24 MR. DAVID POOLE: Well, I think we have that opportunity
25 under the special use permit to make some of those extras.

□

47

1 What's the term, David? I'm trying to use conditions. So I
2 think we have that opportunity. I'm just not prepared to say
3 well this is what we need to do tonight. Maybe one of you guys
4 are. I think it may be one of those situations where we can
5 continue it to the next meeting and maybe have that answer.

6 MR. LAWRENCE WHITSELL: We've got this problem we're facing
7 it with other applicants too. I mean, it's not just you. We've
8 got to address this issue and fix how we're going to deal with
9 these roads and whose going to be responsible to do what. I
10 mean, this is just a big issue. We've tried to encourage these
11 types of projects, believe it or not. It may not sound like it
12 when we're up here talking about this but we want to see these
13 types of things go. We also want it to not impact agencies
14 beyond what's reasonable and also impact the people that are
15 trying to do these free enterprise projects. We want to
16 encourage it. So we need to come up with some numbers.

17 MR. DAVID HARGRAVES: Mr. Chairman, if you'd like to do
18 that, I recommend that you go ahead and continue. Keep the
19 record open so that you can receive that information into the
20 record and maybe the engineers can put that stuff together.

21 MR. DAVID POOLE: Any of you guys think that's a good idea?

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22 *You want to put that in the form of a motion?*

23 *MR. LAWRENCE WHITSELL: Mr. Chairman, I make a motion that*

24 *we continue this application with the idea that we're going to*

25 *accrue more information about how we can delegate out the*

□

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1 *responsibility of road maintenance and the expense of that.*

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

3 *MR. DON WILKERSON: I second.*

4 *MR. DAVID POOLE: Okay. This will be continued to the next*

5 *meeting, which is December 10th. Then we don't stretch this out*

6 *to far.*

7 *MR. BRAD HAWKINS-CLARK: Just for clarification, who*

8 *prepares those numbers? Is that of any interest to you?*

9 *MR. DAVID POOLE: Well, I heard some numbers right now from*

10 *Kim. He's telling me how much it's costing to do what he does*

11 *for maintenance out there. He's telling me how much time he's*

12 *putting in. I know he already has that in his system anyway.*

13 *So all he can say now is okay, if he's going to add this amount*

14 *of trips per day, how much more often am I going to have to go*

15 *back out and do that work?*

16 *MR. BRAD HAWKINS-CLARK: I guess what I'm asking is if the*

17 *Commission is not requiring that this study be done by a*

18 *licensed engineer.*

19 *MR. DAVID POOLE: I think we need to use someone in the*

20 *County system that actually knows what the cost is. That would*

21 *be the County Engineer or Kim or both. I think that's where we*

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22 *need to come up with those numbers.*

23 *MR. WILL MAUPIN: Yeah. I would suggest doing that for one*

24 *other reason too. I mean, it's cost prohibitive for him to go*

25 *hire an engineer to do some of these studies when we could use*

□

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1 *data within the system.*

2 *MR. DAVID POOLE: Well he pays for part of the County too.*

3 *MR. WILL MAUPIN: That's true.*

4 *MR. DAVID POOLE: I assume you're a taxpayer.*

5 *MR. DON WILKERSON: I don't think we want to burden the*

6 *maintaining of a road, even if we don't have our crystal ball*

7 *right now, on the taxpayers of the County. This gentleman is*

8 *looking to start a business and I think he's looking to see if*

9 *it makes him a profit like anybody else starting a business, but*

10 *there shouldn't become a possible burden on the taxpayers and we*

11 *should look at it.*

12 *MR. DAVID POOLE: I think we can look at it this way,*

13 *there's a possibility that at least we're addressing the issue*

14 *and trying to come up with a number that might work and leaving*

15 *it kind of open ended so we can adjust it if it doesn't work.*

16 *MR. LAWRENCE WHITSELL: One of the things that we need to*

17 *keep sight of though is that when we look at him to approve our*

18 *roads as a County responsibility, eventually. That's why I was*

19 *trying to talk to Kim about what his crystal ball said as to*

20 *what would have to be done by the County on it's dollar. It's*

21 *just like the other gravel, the STP that we're dealing with.*

22 *Whose going to be responsible for that? Whose going to benefit?*

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23 *Is the county going to need to do that eventually on it's own?*

24 *I don't know. These are questions I've got. I don't have*

25 *answers. I just got questions.*

□

50

1 *MR. DAVID POOLE: And I think we're still in discussion on*

2 *the motion. It's before the floor. I think that my feeling is,*

3 *like you said, where did the intention go? Do we need to*

4 *address that in the motion? Do you feel that it should be done*

5 *by the County Officials?*

6 *MR. BRAD HAWKINS-CLARK: Is staff responsible to work with*

7 *Mr. Garrigan between now and December 10th? I just want to make*

8 *sure we're not.*

9 *MR. DAVID POOLE: I don't think you need to work with*

10 *Mr. Garrigan at all. What we come back with, Mr. Garrigan's*

11 *going to have to live with to get his special use permit.*

12 *MR. DON WILKERSON: Yeah. Mr. Garrigan should be out of*

13 *the loop until the next meeting on that discussion.*

14 *MR. BRAD HAWKINS-CLARK: Well, we're going to need to know*

15 *possibly some more information about the actual use if your goal*

16 *is to get a per trip estimate and/or a total amount for a bond.*

17 *I guess I understand what you're saying, but in order to tie it*

18 *to this project --*

19 *MR. DAVID POOLE: Use his numbers of 8, 9 loads a day. So*

20 *using his numbers, I think you can take it to Kim then. That 8*

21 *or 9 loads a day is the gravel end. I would suggest, because*

22 *you're already doing your other operation, that's the only time*

23 *you need to be discussing with him.*

24 *MR. BRET GARRIGAN: No. The truth of the matter is the 8*
25 *to 9 loads is of fresh landscape rock. It is already legal to*

□

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1 *do the gravel. The reason I agreed to do the watering is if he*
2 *calls and says I want a big gravel run, I'm going to hire a*
3 *water truck.*

4 *MR. DAVID POOLE: I understand that you're already*
5 *grandfathered in for one. I'm talking about what you got before*
6 *us right now. The special permit for the gravel extraction*
7 *business only. That's the only jurisdiction we've got in this*
8 *matter.*

9 *MR. BRET GARRIGAN: I'm willing to do that.*

10 *MR. DAVID POOLE: All right. So we've got a motion before*
11 *the floor. Any more discussion on the motion? If not, signify*
12 *by saying I. Opposed same sign. Motion carries. Thank you*
13 *very much.*

14

15 *(Motion carries unanimously.)*

16

17 *Public Hearing:*

18 *Item No. 2 Special Use Permit #SUP-07-008 - Randy Lockwood*

19

20 *MR. DAVID POOLE: Okay. We'll move on to the next special*
21 *use permit, which is SUP number 07-008. That's for Randy and*
22 *Lori Lockwood. Is Kandi going to bring us up to speed on this*
23 *one now or is she still allowing you to do it for her?*

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24 **MR. BRAD HAWKINS-CLARK:** *One more. Thank you,*
25 *Commissioners. This special use permit is by Randy and Lori*

□

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1 *Lockwood on property owned by Larry and Dixie to place a*
2 *temporary mobile home on their property for labor assistance*
3 *with the dairy farm. This is located in the A-1 zone.*
4 *Silver Leaf is running across the top of the screen here.*
5 *This round area here, this is the milk barn. The access off of*
6 *Silver Leaf coming in this area here is corrals. Then the*
7 *lagoon is located down here. So they are proposing to place the*
8 *trailer approximately in that location. Silver Leaf Extension*
9 *runs on this side of the road. This is not to scale by the way.*
10 *So Gem County Ordinance does require a special use permit if*
11 *you're going to add a second dwelling unit to property. So this*
12 *is somewhat similar to the temporary hardships that you've had*
13 *in the past. This site is existing driveway entering into the*
14 *property and view west from the Silver Leaf Extension.*

15 **MR. DON WILKERSON:** *Is that the existing home there on the*
16 *left?*

17 **MR. BRAD HAWKINS-CLARK:** *Yes. So the request then is for*
18 *the home trailer to be placed on the property. The staff*
19 *recommended a few basic conditions that are similar to the*
20 *temporary hardship. They'll start on page 6 of the staff*
21 *report. Basically, they comply with Southwest District Health*
22 *in terms of the septic system, no new domestic wells being*
23 *drilled, and having to remove the trailer when it's no longer*

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24 used for agricultural worker purposes. The Department tries to

25 track these pretty closely in terms of annual visits and/or

□

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1 letters just updating the file to verify that indeed the trailer

2 is being used for what you approved it for and not being used

3 for rental or some other purpose.

4 MR. DAVID POOLE: You mean the manufactured home, right?

5 MR. BRAD HAWKINS-CLARK: The manufactured home. Yeah.

6 Sorry. So I think everything else is there in the staff report.

7 MR. DAVID POOLE: Question, Brad, are they allowed a

8 concrete foundation under this or is it like the temporary

9 hardship? It may last a long time. That's why I'm asking.

10 MR. BRAD HAWKINS-CLARK: Yeah. Let's see it's condition.

11 MR. DAVID POOLE: I mean, if it's going to be a dairy farm,

12 they may need a hand there for 50 years. That's why I'm asking.

13 MR. BRAD HAWKINS-CLARK: Yeah. It's condition number 8. I

14 guess we don't actually state it out right but they have to get

15 a temporary certification of occupancy, which really relates to

16 it being a temporary foundation. So, is that the question?

17 MR. DAVID POOLE: Well again, you can put it on a permanent

18 foundation. You could just remove it so that the components in

19 the house could not be used for a residence. Sometimes you're

20 better off trying to put a foundation under something if it's

21 going to be there for a number of years. That's just a

22 question. I didn't see where they weren't allowed.

23 MR. BRAD HAWKINS-CLARK: Yeah. The ordinance doesn't

24 really give us any direction there. I think it's up to you.

25 **MR. DAVID POOLE:** *Okay. Any questions for staff,*

□

54

1 *gentlemen?*

2 **MR. DON WILKERSON:** *Page 4. Your ordinance states*

3 *different code sections than ours. At the bottom you have*

4 *11-5-3D. I couldn't find anything there. I come up with*

5 *11-4-1C.*

6 **MR. DAVID HARGRAVES:** *That's correct.*

7 **MR. DON WILKERSON:** *11-4-1C is correct. Okay.*

8 **MR. BRAD HAWKINS-CLARK:** *Whatever the additional dwelling*

9 *section is.*

10 **MR. DAVID POOLE:** *All right. Then I guess, gentlemen,*

11 *we'll ask the applicant to step forward, state their name and*

12 *address.*

13 **MR. RANDY LOCKWOOD:** *I'm Randy Lockwood and this is my wife*

14 *Lori Lockwood. Lori and her mother have a permit for a dairy*

15 *out on this address. The name on the property is Lori's father*

16 *Larry. Lori is at the dairy working at least 12 to 16 hours*

17 *everyday, 7 days a week. So it would be beneficial for us to*

18 *have a second house put there. Currently we are living in the*

19 *house with Lori's parents. So it's just our intention to put*

20 *another house on there for us to live. I also work there on*

21 *weekends. I have a full time job. I work 40 hours but during*

22 *the weekend, on my days off, I can work up to 16 to 20 hours a*

23 *day on my days off there too.*

24 **MR. DAVID POOLE:** *Okay. Any questions for the applicant,*

25 gentlemen?

□

55

1 **MR. LAWRENCE WHITSELL:** *Yes. How long do you expect to be*
2 *living in this residence?*

3 **MR. RANDY LOCKWOOD:** *Her folks plan to live there for the*
4 *rest of their lives. We plan to have the dairy there for that*
5 *length of time too and continue it on after that.*

6 **MR. LAWRENCE WHITSELL:** *An indefinite amount of time. How*
7 *many cow dairy is it?*

8 **MR. RANDY LOCKWOOD:** *We milk 70 cows. There's upward of*
9 *140 cows on the property at any time.*

10 **MR. DAVID POOLE:** *Drying calves and that sort of thing.*

11 **MR. RANDY LOCKWOOD:** *Drying calves.*

12 **MR. DON WILKERSON:** *In your written application, item 1*
13 *here, it shows that you two are co-owners of the dairy.*

14 **MRS. LORI LOCKWOOD:** *It's actually under a partnership*
15 *between my parents and myself at this point in time.*

16 **MR. DON WILKERSON:** *Okay. One other question. It shows*
17 *here that the parcel is 41 plus acres. Does your folks, Lori,*
18 *or yourself own other property?*

19 **MRS. LORI LOCKWOOD:** *No.*

20 **MR. DON WILKERSON:** *Okay. Thank you. That's all I have.*

21 **MR. DAVID POOLE:** *Any other questions? Thank you very*
22 *much. Time for public input in this. Is there any public input*
23 *in this at all? I see nobody listed to speak. Then my*
24 *assumption is you have nothing to rebut. Thank you very much.*

25 *I'll close the public portion of the meeting and bring it before*

□

1 *the Board. Gentlemen, I have to ask about any ex parte*

2 *communication, conflict, site visit. None of that. Okay.*

3 *Comments, gentlemen?*

4 *MR. WILL MAUPIN: You know, I really get hung up on a term*

5 *temporary. When I see a concrete structure put in place I view*

6 *that as permanent. So I guess I need some guidance on what*

7 *constitutes temporary and what constitutes permanent when we're*

8 *talking about this type of housing.*

9 *MR. DAVID POOLE: How many foundations have you torn out?*

10 *MR. WILL MAUPIN: Too many.*

11 *MR. DAVID POOLE: Okay, but their still temporary.*

12 *MR. WILL MAUPIN: I don't know. They felt pretty permanent*

13 *by the time I got them out of there.*

14 *MR. DAVID POOLE: Yeah. Do we have some guidance on that,*

15 *David?*

16 *MR. DAVID HARGRAVES: Mr. Chairman, I think we may be*

17 *getting that temporary term in there unnecessarily. The section*

18 *that we're looking under, as Don pointed out, is 11-4-1. Prime*

19 *Ag allows for additional dwellings. What the language of the*

20 *ordinance says is allow additional dwellings in agricultural*

21 *zones for housing hired help with operation of the farm upon*

22 *approval of the Zoning Commission by special use. So it doesn't*

23 *talk about temporary. It just talks about having additional*

24 *dwellings.*

25 *MR. DAVID POOLE: Our control is the fact that the use is*

□

1 *no longer there and has to be removed.*

2 *MR. DAVID HARGRAVES: Right. That's where the temporary*
3 *part comes in. As soon as they stop using it for hired help,*
4 *that's the only use it can be used for. Once that stops, it has*
5 *to be removed.*

6 *MR. DAVID POOLE: All right. Thank you, David.*

7 *MR. LAWRENCE WHITSELL: I have no issues with this. It*
8 *looks like it has need.*

9 *MR. DON WILKERSON: I guess I don't feel that way. To me,*
10 *it just doesn't meet the test of how the section is written,*
11 *where it says it's for the use of temporary housing for hired*
12 *help. The party before us tonight are in partnerships with*
13 *other parties on this dairy. So to me, that doesn't constitute*
14 *hired help. Also, Mr. Lockwood is not employed by the dairy.*
15 *He is actually employed off-site. Again, that does not*
16 *constitute hired help at the location. So to me, it does not*
17 *meet the test of that item in the ordinance.*

18 *Some time ago when we were discussing splits with this*
19 *condition, we had, if I remember right, we had a workshop*
20 *concerning this very subject of putting additional living units*
21 *in 40 acre zones. At that time, we were looking at possibly*
22 *revising or coming up with an ordinance and calling them various*
23 *things. One thing that was brought up was secondary dwellings.*
24 *I think until that is done, this application should be denied*
25 *because it is not a true need to house hired help. Thank you.*

□

1 *MR. LAWRENCE WHITSELL: I got a question for Don. If they*
2 *were to actually get on the payroll, then that would appease*
3 *what you're saying then?*

4 *MR. DON WILKERSON: Not really. We went through this one*
5 *other time out here west of town. First one to put a second*
6 *dwelling on a parcel of ground that only allowed one. In our*
7 *discussions with the testimony we found out that the parties*
8 *worked off-site and that was denied and to me this is the same*
9 *scenario. It does not meet the test of the ordinance and I*
10 *think we need to follow the ordinance. It may not fly with the*
11 *applicant, but we shouldn't deviate from what we've been doing*
12 *in the past and follow the ordinance.*

13 *MR. LAWRENCE WHITSELL: Do a literal interpretation then.*

14 *MR. DON WILKERSON: Right. If you start waivering this,*
15 *then pretty soon the next one we're going to have those requests*
16 *for additional living units on these parcels.*

17 *MR. DAVID POOLE: So you think because both of them aren't*
18 *working there or just because they're part owner in it?*

19 *MR. DON WILKERSON: They're not hired help.*

20 *MR. DAVID POOLE: Not hired help. Well I'm in a*
21 *corporation and I'm also an employee in that corporation. So*
22 *under those circumstances, it would be okay if it was a*
23 *corporation and they --*

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

25 *MR. DAVID POOLE: Why wouldn't it be? They're an employee.*

□

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1 *A literal term is they're an employee.*

2 *MR. DON WILKERSON: I can sit here and probably argue all*
3 *night.*

4 *MR. DAVID POOLE: Well you can but I think literally if*
5 *that's where you're trying to go, then maybe the way to address*
6 *the issue is another direction.*

7 *MR. DON WILKERSON: Right.*

8 *MR. DAVID POOLE: So what is your share in partnership on*
9 *that one third? Do you get paid a paycheck?*

10 *MRS. LORI LOCKWOOD: Not technically.*

11 *MR. LAWRENCE WHITSELL: You contribute how many hours a*
12 *week?*

13 *MRS. LORI LOCKWOOD: At a very minimum, 12 hours a day, 7*
14 *days a week.*

15 *MR. DON WILKERSON: But even the owner of the property, if*
16 *you're in the dairy business, it's a 24/7, 365 day job.*

17 *MR. DAVID POOLE: We need to reopen or at least submit the*
18 *information. I do apologize for that. All right, gentlemen,*
19 *further discussion? If not, somebody want to put this in the*
20 *form of a motion?*

21 *MR. DON WILKERSON: I make a motion that we deny this*
22 *special use application because it does not meet the criteria of*
23 *the ordinance that says this is to be temporary housing for*
24 *hired help.*

25 *MR. DAVID POOLE: Second to the motion. Motion dies for*

□

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1 *lack of a second. Do we have another motion?*

2 **MR. LAWRENCE WHITSELL:** *I make a motion that we accept*

3 *their application for special use permit based on practicality,*

4 *I guess. I understand Don's position on this. I mean, if*

5 *everything is very literal, there's really no need for*

6 *Commissioners. All we have to do is just be able to read*

7 *ordinances. This is one of those things where I think this is*

8 *an abuse of the ordinance because it appears they clearly are*

9 *contributing a large amount of their work day into this business*

10 *and it's not easy work. It satisfies the intent of the*

11 *ordinance. It may not literally satisfy it but it satisfies the*

12 *intent and that's what I'm basing my position on.*

13 **MR. DAVID POOLE:** *Okay. On a special use permit you do*

14 *need to confer to the A through F I think we have here.*

15 **MR. DON WILKERSON:** *A through I.*

16 **MR. DAVID POOLE:** *And the staff has prepared a kind of*

17 *specific condition for approval. If you accept those, I think*

18 *you can just state that you accept what staff has prepared for*

19 *you here. Approve the subject application with the conditions*

20 *listed above.*

21 **MR. LAWRENCE WHITSELL:** *I so move.*

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

23 **MR. WILL MAUPIN:** *I'll second that motion.*

24 **MR. DAVID POOLE:** *Been moved and seconded. Further*

25 *discussion of the motion on the floor.*

□

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1 *MR. DON WILKERSON: I have a real problem with this, as a*
2 *Commission, looking at things that may meet the intent.*
3 *Everything that comes before us could maybe meet the intent of*
4 *an ordinance. I think we need to look at the meaning of the*
5 *ordinance and the way it should be administered.*

6 *MR. WILL MAUPIN: When you look at the site specific*
7 *conditions of approval, staff has listed the applicant must*
8 *provide current proof of employment for the occupancy prior to*
9 *issuance of the building permit.*

10 *MR. DAVID POOLE: Which covers your problem here, Don.*
11 *They just got to provide proof before they get a permit.*

12 *MR. DON WILKERSON: Well you can scratch it any way you*
13 *want.*

14 *MR. LAWRENCE WHITSELL: What would be the interpretation of*
15 *hired then? I mean, that's a fairly vague term, hired.*

16 *MR. DAVID HARGRAVES: Commissioners, I think what we're*
17 *looking at is more of an interpretation of the ordinance. What*
18 *does this ordinance language allow? I mean the language is*
19 *clear that it allows the special use permit for hired help.*

20 *There's no use of the word temporary in there. So as long as*
21 *they're using it forever and a day for hired help it can go on*
22 *forever and a day. When it ceases to become used for hired help*
23 *then it has to go away.*

24 *MR. LAWRENCE WHITSELL: How do you define hired though?*

25 *MR. DAVID HARGRAVES: There's the word that you're caught*

□

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1 *up on and you have to interpret what does hired help mean.*

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2 *You're doing a great job debating that.*

3 *MR. WILL MAUPIN: My understanding, if you're a business*
4 *owner, you still have to report a certain amount of W-2 income,*
5 *which implies employee --*

6 *MR. LAWRENCE WHITSELL: That you're hired.*

7 *MR. WILL MAUPIN: -- to yourself, even if you're an owner.*
8 *So my opinion is if we're going to get down to the literal*
9 *ordinance and what it says, if you're a self-employed individual*
10 *and you have to report on your taxes a certain amount to*
11 *yourself, then you are an employee of that company. That's just*
12 *how I feel about it.*

13 *MR. DAVID POOLE: We obviously hear that from you.*

14 *MR. DON WILKERSON: I understand where you're coming from*
15 *there. I think you're going to open it up. Mr. Jones out*
16 *there, he's got a son. All he's got to say is he's working on*
17 *the dairy or the ranch or whatever and they're going to be in*
18 *here for an application to put a second residence on that piece*
19 *of property. I just think we're opening ourselves up. It's*
20 *been tried before and it's been denied.*

21 *MR. LAWRENCE WHITSELL: And so what you're saying is*
22 *they're abusing the privilege just by having a kid or somebody*
23 *living on the premises and not really working on the dairy or*
24 *the farm?*

25 *MR. DON WILKERSON: Well, no. I'm not saying that. I'm*

□

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1 *just saying that we're opening it up to where I'm sure there's a*

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2 lot of folks out there that own a ranch. They're maybe getting
3 elderly or whatever and they want somebody to come and live on
4 the farm with them. The family, the son, his wife, and the 3
5 kids to come and live on that ranch with them to run it. So
6 really, I think we're opening that up with a different
7 interpretation of the ordinance then what we've used in the
8 past.

9 MR. LAWRENCE WHITSELL: Then to satisfy your position, all
10 they have to do is have an employment contract as a hired
11 employee.

12 MR. DON WILKERSON: Then you got to get into that.
13 Possibly if these two people both worked on the dairy, maybe I'd
14 feel differently, but they don't.

15 MR. DAVID POOLE: Well they can't both work on the dairy
16 because they can't afford to.

17 MR. DON WILKERSON: Well then maybe they shouldn't be in
18 the business.

19 MR. DAVID POOLE: Any further discussion? If not, let's
20 bring this to a vote, gentlemen. All those in favor of the
21 motion on the floor signify by saying I.

22

23 (Lawrence Whitsell and Will Maupin voted in favor

24 Of the motion.)

25

□

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1

2 MR. DAVID POOLE: Opposed.

3

4 *(Don Wilkerson voted against the motion.)*

5

6 *MR. DAVID POOLE: Motion carries two to one. You'll be*
7 *notified by the P and Z office. All right. Let's move on to*
8 *the next one.*

9 *MR. WILL MAUPIN: Can I have just one minute with David*
10 *quickly before we start this?*

11 *MR. DAVID POOLE: Sure. We'll take a 5 minute recess.*

12

13 *(A short break was taken.)*

14

15 *Public Hearing:*

16 *Item No. 3 Special Use Permit #SUP-07-009 - Carol MacGregor*

17

18 *MR. DAVID POOLE: All right. We'll bring this special use*
19 *permit before the Board now. Again, Brad, are you going to*
20 *bring us up to speed?*

21 *MR. BRAD HAWKINS-CLARK: Thank you, Commissioners. Special*
22 *use permit by Carol MacGregor to allow the removal of shale rock*
23 *from property. This is located on Shale Rock Road. This first*
24 *slide down here on the bottom left there's a basic outline of*
25 *Picket Corral Subdivision. This portion is not really quite in*

□

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1 *perspective but you would continue along Shale Rock right at the*
2 *entrance at Picket Corral Drive or Lane or whatever that main*

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3 road into there is. That's where the asphalt stops and the
4 gravel begins. So you would be taking the gravel from Picket
5 Corral Subdivision traveling to the east, I think. The
6 application says three eighths of a mile but I think it's a
7 little closer to a mile. Then on the north side, before you
8 actually go kind of through the Black Canyon itself, before you
9 really drop down through that there is an existing driveway,
10 fairly narrow. There's a gate, which goes off of Shale Rock
11 Road and then heads to the north towards the reservoir. So this
12 survey depicts quite a bit of land in the area. This is the
13 reservoir/river here. The dash line's here so you can see it's
14 relatively close. That doesn't show topography. It's
15 relatively higher.
16 There is somewhat of an existing pit there. They are
17 proposing to remove a similar amount of material that you heard
18 on the prior application. Their estimate, I believe, was 7 to 9
19 loads a day on a peek. So the application is here. There's a
20 couple of site photos. Here's Shale Rock Road on the right hand
21 side. This is where the property currently takes off and begins
22 to head north. This is after you've kind of curved around the
23 driveway and you're looking straight north.
24 Another thing that Kandi included in her report was a
25 reference to the power structures. This pole here is fairly

□

66

1 close to where the existing pit is. We think it's probably
2 Bureau of Reclamation. She might be able to enlighten us but
3 that just has a point of clarification about the site and what

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4 is impacting it. There is that existing power line and
5 structure very close to the pit. This is the pit as it looks
6 today. It's kind of difficult to estimate depth but it's at
7 least probably 15 there from the grade down. You can get a
8 little bit of sense for the material on that photo. The
9 material is certainly different there than typical granite.
10 Here's a view of the power pole sort of from the pit again
11 looking to the north. So these are large facilities.

12 MR. DON WILKERSON: Does it face the east or west?

13 MR. BRAD HAWKINS-CLARK: The shot is taken generally to the
14 east. The application states that this is on approximately 2
15 acres of land where the actual project would take place. There
16 would be berming and fencing around the site. The application
17 itself, as you can probably tell from the photo, is not visible
18 from Shale Rock Road nor from the reservoir. It's perched up
19 there so you can not see it in terms of visual impacts of the
20 operation itself. They estimate 3 to 4 employees. It is zoned
21 A-1, prime agriculture, which the ordinance allows for
22 extraction businesses with a special use permit.

23 On this application there have not, so far, been any
24 information provided regarding on-site toilet facilities. So
25 that should just be clarified as part of the hearing as well as

□

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1 any known hazards other than the ones that I've already
2 mentioned.

3 Staff did request that the applicant meet with Kim Reed.

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4 Kim filed a letter, which you should have received in your
5 packets, which was more of a hand written note this time. It
6 was not as detailed as the last application. His main concern
7 is regarding the impacts to the base condition of Shale Rock
8 Road itself and Frozen Dog, particularly as you come down the
9 grade from Picket Subdivision. So we had asked, at this point,
10 if we could just have on the record tonight any conversation
11 that has taken place, just to clarify his concerns. Some of the
12 similar conversation we anticipate will happen as what you had
13 talked about with Bret Garrigan's application.

14 As you can see, the drive way is fairly narrow. The car
15 may be one and a half times the width of a vehicle. So in terms
16 of turn outs we have some concern about that and would like to
17 see that driveway, at a minimum, meet Gem Fire District No. 2
18 standards in terms of what they feel might be necessary for
19 access for their equipment should they need to service that
20 site. They have different ways they can work those fire lanes.
21 I mean, you can have turn outs every 150 feet per ordinance or
22 widen it to 20 feet and not have to do turn outs.

23 MR. DAVID POOLE: Would that be necessary if the roads not
24 for public use?

25 MR. BRAD HAWKINS-CLARK: It potentially would not be. It's

□

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1 really more just emergency services.

2 MR. DAVID POOLE: Okay. If all they've got is an out house
3 up there, let it burn.

4 MR. BRAD HAWKINS-CLARK: And they may not have any comment.

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5 *The way we worded it was just regarding a private driveway*
6 *improvement and check with Fire District No. 2. So far they*
7 *have not provided any comment. Then we can just strike that*
8 *number 1 and number 2 both, deal with that access road.*

9 *MR. DAVID POOLE: Are you done, brad?*

10 *MR. BRAD HAWKINS-CLARK: I was just going to point out*
11 *condition 15, which right now says comply with all requirements*
12 *of the Gem County Road and Bridge department as adopted by the*
13 *Planning and Zoning Commission. The reason we worded it that*
14 *way is because right now we really don't have any conditions*
15 *from the Gem County Road and Bridge Department for you to adopt.*
16 *So if you have issues related to the bonding or that type of*
17 *issue, it would be that.*

18 *MR. DAVID POOLE: Any questions for staff?*

19 *MR. DON WILKERSON: I have a couple. Item number 9. Can*
20 *you tell me what you mean by required yards, or general required*
21 *yards? Are you talking location of the pit or are you talking*
22 *yardage removed?*

23 *MR. BRAD HAWKINS-CLARK: Typically a required yard is the*
24 *area within a setback. That's so if you had a 15 foot setback*
25 *from your property line, the required yard is that 15 foot all*

□

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1 *the way around. In this case, that language probably doesn't*
2 *make sense because their setbacks are so far away from the*
3 *property line.*

4 *MR. DAVID POOLE: This is a state pit already or it has not*

5 *been applied for yet.*

6 *MR. BRAD HAWKINS-CLARK: To our knowledge, we have not*
7 *received anything from the state.*

8 *MR. DON WILKERSON: Also, on item 12 where you said the*
9 *fence would be a minimum of 6 feet high, I know of other*
10 *locations where it is fenced and it's not 6 foot high. A sample*
11 *is Unimans out here. On our previous one we did not have a*
12 *requirement for the height of the fence. We just had them fence*
13 *it. Another thing that we have is it needs to be fenced and*
14 *signed no trespassing. We don't want a motorcycle trying to get*
15 *through there and end up in a 15 foot deep pit. We've had that*
16 *as a requirement before, signed as a pit or something like that.*

17 *MR. BRAD HAWKINS-CLARK: I would just submit that into the*
18 *record. There has been three letters submitted. One from a*
19 *Goff Blessenger, the Black Canyon folks, and one letter of*
20 *concern that raised a lot of questions from the Picket Corral*
21 *Home Owners Association. That all came in late but we thought*
22 *they were relevant so we put them on your table.*

23 *MR. DAVID POOLE: Okay. Further questions?*

24 *MR. LAWRENCE WHITSELL: Brad, on item 9 is that the correct*
25 *word, "outside"? The fourth word from the end of the sentence.*

□

1 *Is that the correct word or should it be inside?*

2 *MR. BRAD HAWKINS-CLARK: As it's worded, that would be*
3 *correct because that would be if you're real close to your*
4 *property line you wanted to keep those cuts or fills at least 30*
5 *feet from the actual property lines as not to create sloughing*

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6 *off onto your neighbors; does that make sense?*

7 *MR. DAVID POOLE: Well, we're both thinking of it the other*
8 *way. It should be inside.*

9 *MR. LAWRENCE WHITSELL: Yeah. It doesn't make sense to me*
10 *but I'll just trust your judgment.*

11 *MR. DON WILKERSON: Inside the boundary.*

12 *MR. DAVID POOLE: The yard is going to be 30 feet, if*
13 *that's the case, from the line?*

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

15 *MR. DAVID POOLE: So it would just seem this should be*
16 *inside the required yard.*

17 *MR. BRAD HAWKINS-CLARK: I see what you're saying.*

18 *MR. DAVID POOLE: Anyway, in this particular incidence it's*
19 *probably not that important. Okay. Any further questions for*
20 *staff?*

21 *MR. WILL MAUPIN: I need to recuse myself here and reserve*
22 *the right for public comment.*

23 *MR. DAVID POOLE: Okay. He feels that he has a conflict of*
24 *interest. So therefore he's going to step down as a*
25 *Commissioner.*

□

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1 *MR. DAVID HARGRAVES: Mr. Chairman, can you just tell us*
2 *the nature of that? I think it's conflict of interest. Seems*
3 *to be more bias. You don't have an economic interest in this,*
4 *do you?*

5 *MR. WILL MAUPIN: No. This impacts an access to my*

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6 *personal property and I have concerns with it that I'd like to*
7 *express as a citizen and not a Commissioner.*

8 *MR. DAVID POOLE: So you're going to step down as a*
9 *Commissioner and be a citizen for a while.*

10 *MR. WILL MAUPIN: Yeah.*

11 *MR. DAVID POOLE: All right. We'll bring the applicant*
12 *forward. Ms. MacGregor, please come before the Board.*

13 *MS. CAROL MACGREGOR: My name is Carol MacGregor. My*
14 *address is 60 Raspberry Road, Cascade, Idaho. My winter mailing*
15 *address is a little different, therefore, I did not get this*
16 *until today. So I've spent two hours with it today and I'll try*
17 *to go through some of my reactions to the concerns here. I have*
18 *owned this property for 20 years. My father own ed it before*
19 *that for about 40 years, developing a large ranch there in the*
20 *early 50's. One of the things that he did was to sell gravel to*
21 *Gem County for many years. It was not exactly in the same place*
22 *as we're proposing to do it now, but this is certainly a*
23 *traditional use of the this land. Property was later sold to*
24 *Ronald Kensly. Then there was part of the property was sold to*
25 *Turtlings. That became the Picket Corral Subdivision. I sold*

□

72

1 *30 acres down the road to the neighbors. So all I have now is*
2 *519 deeded acres and 350 Bureau of Reclamation acres.*

3 *I've never done this before in this format so I brought*
4 *this if you wanted to see it. It's the same map that you have*
5 *up there if you want to look at it closer. So you see there are*
6 *no neighbors adjacent to the exact place of this proposed shale*

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7 rock extraction except the Bureau of Reclamation. There was a
8 question when Mike Bride approached me about the potential for
9 this operation last year about where the line was. I spent
10 13,000 dollars finding out. So this is an exact survey just
11 done this year with all the pens in there.

12 The way the land lies, you go off the road, which has been
13 greatly improved since the picture because Mike is frothing at
14 the bit in anticipation of an opportunity like this. He has
15 widened this. It's deeper. He can explain that. He's the
16 operator. I'm not. The property line, as you go around that
17 hill and where you saw the road going up the hill, you still
18 didn't see the place where the shale rock lies on the hill.
19 It's almost to the crest. It is a couple hundred feet from
20 those big Idaho Power installations. Mike has already brought
21 those people to the property. They have an easement from me and
22 my father before me to use the same road, which was a trail
23 before. Mike is fixing it and they go up there on the easement
24 that they have from us to check it. The pit is not on the road.
25 The easement that they have services the Bureau. The land ends

□

73

1 kind of right as the cliff goes off the other side. So you
2 can't see this site from the road on the other side of the Black
3 Canyon Dam either. It's a long ways from there. Nobody can
4 hear this and nobody can see it. With the wide parking area
5 over here, he's going to have enough so that all three of his
6 trucks could -- that is the most important part here as far as

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7 safety goes. First of all, there are no trespassing signs all
8 over my fences. I've had a lot of trouble with hunters in the
9 past. Mike has already installed an iron gate with a lock and
10 he is in contact with Idaho Power as well as the Bureau of
11 Reclamation. There will be three locks on that gate and I'll be
12 more protected then I've ever been.

13 MR. DAVID POOLE: And the Fire District I think too
14 might --

15 MS. CAROL MACGREGOR: Well that is the question I had. I
16 don't understand why the Fire District needs to be there except
17 during working hours if somebody got hurt. There's no buildings
18 at all.

19 MR. DAVID POOLE: Should there be a fire there, they just
20 need to access it. If you don't want your fence cut, I would
21 cooperate with the Fire District. That's all.

22 MS. CAROL MACGREGOR: Okay. I didn't know. That was what
23 I didn't understand here. I'm sure that when Mike's operating
24 it between, I think that you gave him the suggestion of 7 a.m.
25 to 7 p.m., that gate would not be locked Monday through

□

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1 Saturday, whenever he's there. We may make it just in time for
2 him not to work because if it's really gumbo, you know, he's not
3 going to go there, but there's a pretty good base on Shale Rock
4 Road now. It is less than a mile. I guess I need to get my
5 tachometer fixed if my reading was incorrect, but it is less
6 than a mile from this point to the oil road at Picket Corral
7 Subdivision. It is a two-way road unlike it was when I was a

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8 child there. This road, as Brad Hawkins-Clark told you, goes
9 off before the steep part, you know, the 10 percent grade into
10 Black Canyon. So you're not dealing with that. You top over
11 the hill and go down and then you veer off to the left here if
12 you're going north. So the real question in my mind in trying
13 to plan this with the Planning and Zoning is through the summer
14 months, to have a proper egress and ingress, and the reason it
15 wasn't done before is because if you denied our application,
16 this fills out the money for fixing it. He's the operator.
17 He's going to talk to you about the operation. I'm just talking
18 to you about the property.

19 I'm the sole owner of the property. I have no plans to
20 develop this property. I suppose I could apply for another
21 Picket Corral Subdivision. I've got another land there that is
22 nice view property. I really don't want to do that. A lot of
23 the property is just shale rock. I graze cattle there for 5 to
24 6 weeks in the fall only. It's kind of fragile land. There's a
25 lot of exotic grasses that aren't very good there in the spring.

□

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1 If you over graze it in the spring, it would be ruined. I let
2 cattle in about now until the first of the year. I think he's
3 going to go in this year on the 10th of December. So there's 5
4 weeks of income out of a year.

5 The way this property is now, I've got 519 acres that I'm
6 paying taxes on, one barn, and I would like to keep it
7 undeveloped but I would like it to pay for itself too.

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8 *I think that it's a good thing for Gem County to have more*
9 *employment. I think it's a good thing for him to be buying*
10 *gasoline in Gem County. I think Shale Rock Road is a pretty*
11 *good road and this will be a private road.*

12 *It is already posted no trespassing. I don't allow any*
13 *hunters on there. I've been invaded time after time. I think*
14 *this will actually help that to get people that are not invited*
15 *off. I think I've explained about the land and now Mike could*
16 *explain more about his operation unless you have any questions.*

17 *MR. DAVID POOLE: That would be fine. It's obvious that*
18 *Mike does need to make some explanation here. So if you don't*
19 *mind Mike stepping forward --*

20 *MR. DON WILKERSON: Can I ask a question? Is the Idaho*
21 *Department of Lands going to be involved in this? Do you need*
22 *to get a permit from them?*

23 *MS. CAROL MACGREGOR: It's my private land.*

24 *MR. DON WILKERSON: Okay. So there's no reclamation permit*
25 *plan provided that when operation seize that you recover the*

□

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1 *ground.*

2 *MS. CAROL MACGREGOR: There's nothing to recover, sir.*

3 *It's all rocks.*

4 *MR. DON WILKERSON: That's what I wanted to know. So in*
5 *your mind, department of lands is not involved because it is*
6 *private land. Does the staff feel that way?*

7 *MS. CAROL MACGREGOR: I would like to have it left so that*
8 *there might even be some building sites for my estate later. It*

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9 *might even be better then it is now. The pit that you saw is*
10 *natural.*

11 *MR. DON WILKERSON: Staff's in agreement?*

12 *MR. BRAD HAWKINS-CLARK: Well, Commissioners, I'm not an*
13 *expert on Idaho Department of Land's policies. The fact that*
14 *it's private doesn't have anything to do with it because they*
15 *require reclamation on private lands all the time.*

16 *MR. DON WILKERSON: Right, because I know there's other*
17 *applications where it was private ground. Mr. Brad Little owned*
18 *some and there had to be reclamation plans and State Department*
19 *of Lands had to approve it.*

20 *MR. DAVID POOLE: Yeah. Any extraction business.*

21 *MS. CAROL MACGREGOR: I would hope to improve it. I don't*
22 *like it the way it is now.*

23 *MR. DON WILKERSON: They have to approve the operation.*

24 *MR. DAVID POOLE: Yeah. DEQ, EPA. There's a lot of*
25 *involvement with those people.*

□

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1 *MR. DON WILKERSON: I think that's a question that has to*
2 *be answered and I thought maybe you'd have the answer for it.*
3 *Thank you.*

4 *MR. LAWRENCE WHITSELL: Have you talked with Kim Reed about*
5 *the road issues?*

6 *MS. CAROL MACGREGOR: He left but he did send a note. I*
7 *was not aware until today in receiving this that you had a*
8 *concern about it. I'll tell you the process I've been through.*

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9 *First of all, I've never applied through you for anything*
10 *before. I've never had a need to. It was impossible to do this*
11 *because you didn't have the flexibility of having a special use*
12 *permit. Mr. Hawkins-Clark fixed that with this ordinance and*
13 *you all passed it. When I was here in June I worked with a*
14 *woman named Wendy for about two months. She rejected our first*
15 *application even though I hired a lawyer to do it, thinking I*
16 *wasn't able to do it. So I fired the lawyer and did it myself.*
17 *I talked to Wendy for hours on the phone until I got just what*
18 *she wanted and then she quit. The application languished for a*
19 *while and then there were two other names on it. This lady here*
20 *has been very pleasant the last month but until I read this*
21 *today I was not given any concern about the public road. I*
22 *didn't think that nine trips a day during clement weather would*
23 *damage the road. It's got a pretty good base on it now.*
24 *Certainly much improved over when I was a child going over it.*
25 **MR. DAVID POOLE:** *Okay. Thank you.*

□

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1 **MR. LAWRENCE WHITSELL:** *But did you and Kim talk though?*
2 **MR. DAVID POOLE:** *She has not talked to him.*
3 **MS. CAROL MACGREGOR:** *I talked with him outside when we*
4 *were going to the bathrooms and all I talked to him about is why*
5 *they don't have a speed limit on Pearl Road.*
6 **MR. LAWRENCE WHITSELL:** *Okay.*
7 **MS. CAROL MACGREGOR:** *I really wasn't aware of a concern*
8 *until I got this at 3 p.m. today.*
9 **MR. LAWRENCE WHITSELL:** *Thank you, Carol.*

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10 **MR. DAVID POOLE:** *Mike, you have some comment.*

11 **MR. MIKE BRIGHT:** *Mike Bright, 11360 Tempe Lane, Star,*
12 *Idaho. In the picture you're looking at, since that picture was*
13 *taken, where the fence is there, that's all been torn out. Both*
14 *posts have been torn out. The new gate has been moved back far*
15 *enough to park two truck and pups, end to end off of the main*
16 *road there.*

17 **MR. DAVID POOLE:** *So you made a cut on the left hand side.*

18 **MR. MIKE BRIGHT:** *Yes and took both posts out and widened*
19 *it this way too. So it comes into a big swoop right there where*
20 *that tire is. Then we put some gravel on it. We put 10 inches*
21 *of gravel on it.*

22 *There won't be any structures. There will be nothing up*
23 *there but a loader and a dozer, which usually just sits there.*
24 *The loader will be working on a daily basis. The dozer will be*
25 *working on probably a monthly basis. There will be no fuel*

□

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1 *storage. There's really nothing to burn up there. Where we're*
2 *at on the hill it's just rock. It's rock with some dust*
3 *scattered on it. You couldn't grill a thing. There is a turn*
4 *out to the first corner. There's a pull out and then there's an*
5 *actual parking area there. Then you go about another 8th of a*
6 *mile maybe and then the road gets wide enough for two trucks.*
7 *Then the pit is right there.*

8 *The road has been graded both ways. So we get good water*
9 *run off on the inside of the road and it comes down to the*

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10 bottom where there's a nice rock base, where there won't be
11 erosion. It's got a crown too. It should have good drainage.
12 It has a dirt berm to the right side for safety. Where they
13 pull out to pull onto Shale Rock Road you've got really good
14 visibility both ways. It's a nice straight shot right there and
15 it's straight for Shale Rock Road.

16 MR. DAVID POOLE: So do you pull up at a 90 degree angle
17 or --

18 MR. MIKE BRIGHT: When you're coming back this way, you're
19 road is back behind you here for the up hill traffic and you're
20 looking straight at the down hill traffic.

21 MR. DAVID POOLE: But the one that's on your side, coming
22 when you're going to be exiting the property --

23 MR. MIKE BRIGHT: Correct.

24 MR. DAVID POOLE: You're not at a 90 degree. You're at an
25 angle.

□

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1 MR. MIKE BRIGHT: Right. On the driver's side.

2 MR. DAVID POOLE: Do you plan on any public sales at the
3 pit?

4 MR. MIKE BRIGHT: No. No sales. Actually, for the time
5 being, until we get a nice flat surface area up there, which
6 will probably, I'm guessing at least a couple, maybe 3 years,
7 we'll be hauling just raw rock from the hill down to my sand and
8 gravel operation on Highway 52. That's where it will get
9 crushed, washed, screened, and then shipped to Boise.

10 MR. DAVID POOLE: There's not going to be anything there

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11 *except extracting the raw material.*

12 **MR. MIKE BRIGHT:** *Yes.*

13 **MR. DAVID POOLE:** *Okay. When you say a 2 acre pit, how*
14 *deep are you going to go with this 2 acres?*

15 **MR. MIKE BRIGHT:** *We're trying to create a flat usable*
16 *piece of land there. The hill is fairly steep on one side. So*
17 *it will be flat and then it will bench. Then it will be flat*
18 *and it will bench.*

19 **MR. DAVID POOLE:** *Estimating, about how many yards in this*
20 *2 acres do you expect to extract?*

21 **MR. MIKE BRIGHT:** *In that 2 acre parcel, probably somewhere*
22 *around a couple hundred thousand yards.*

23 **MR. DAVID POOLE:** *You're going to get that out of 97,000*
24 *square feet? Especially when you've got toe and heel on the*
25 *slopes and you're knocking it off. I just question that. That*

□

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1 *you're going to get that much yardage without going in a hole in*
2 *the ground.*

3 **MR. MIKE BRIGHT:** *And that 2 acre number, that may not be a*
4 *correct number.*

5 **MR. DAVID POOLE:** *Well that's 208 feet by 216 feet. It's*
6 *not very big.*

7 **MR. MIKE BRIGHT:** *Yeah. Probably the one high bank is*
8 *going to be significant but it will have to be safe.*

9 **MR. DAVID POOLE:** *Well, I think you're going to find that*
10 *out when you talk to the people that permit the pits. The State*

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11 of Idaho. I think they're going to be involved. I think you're

12 going to find that out. So you've got some slope issues that

13 you're going to have to deal with here. Questions, gentlemen?

14 MR. DON WILKERSON: In the staff report, they mention rock

15 crushing to be permitted during hours of operation of this

16 facility. You're saying there's not going to be any rock

17 crushing at all.

18 MR. MIKE BRIGHT: No. There will be one day, maybe, but

19 not for the first couple of years.

20 MR. DON WILKERSON: Okay. So you want to leave that in

21 because eventually you plan to crush rock there.

22 MR. MIKE BRIGHT: Yeah. That would be nice to have in

23 there.

24 MR. DON WILKERSON: Okay. Another item that Kim Reed

25 didn't address in his notes is dust abatement. Has that been

□

82

1 discussed with you or something you thought about on Shale Rock

2 Road?

3 MR. MIKE BRIGHT: There's approximately seven eighths of a

4 mile of gravel road there. No. There's been no discussion on

5 that.

6 MR. DON WILKERSON: Okay. I think Brad hit on it. I don't

7 see it in the conditions but toilet facilities. On-site porter

8 potty?

9 MR. MIKE BRIGHT: That might be a requirement from the

10 state. It would be one of those plastic blue lagoons.

11 MR. DON WILKERSON: Right. Okay.

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12 **MR. DAVID POOLE:** *Actually, unless you have an employee*
13 *it's probably not an issue.*

14 **MR. DON WILKERSON:** *In one of the letters we got tonight, I*
15 *believe it's from Mr. Phillips, concerning covered loads. This*
16 *is a shale. So is it pretty light?*

17 **MR. MIKE BRIGHT:** *The raw rock that we bring down will*
18 *probably be twice as big as your head as an average, but I think*
19 *the smaller ones are still golf ball size.*

20 **MR. DON WILKERSON:** *So do you think you need to have the*
21 *loads covered?*

22 **MR. MIKE BRIGHT:** *No. We have a sand and gravel operation*
23 *and the only thing that really needs to be covered is the sand*
24 *and road mix. Anything bigger than a three quarter rock won't*
25 *come out of a bit even if it's exposed to the air.*

□

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

2 **MR. DAVID POOLE:** *Thank you very much. We are open for*
3 *public input. Public input for those in favor of this special*
4 *use permit. Input for those with a neutral stand for this*
5 *special use permit.*

6 **MR. JOHN SHOEMAKER:** *My name is John Shoemaker. I live at*
7 *2078 Picket Lane. My issues are two things. When my daughter*
8 *was going to school in Emmett they could never let a school bus*
9 *drive up that Picket Corral Road. Why is it possible for a semi*
10 *to come down the same road that they wouldn't let a school bus*
11 *come up? If it was dangerous for a school bus to come up to*

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12 *pick up our kids in Picket Corral, why is it safe for a truck to*

13 *go down Frozen Dog Road?*

14 *MR. DON WILKERSON: What was the reason they wouldn't allow*

15 *the school bus?*

16 *MR. JOHN SHOEMAKER: I have no idea. We still have to take*

17 *our kids all the way down to the bottom of Frozen Dog.*

18 *MR. DON WILKERSON: Well was it during the winter?*

19 *MR. JOHN SHOEMAKER: One time my wife called. No. They*

20 *don't come up at all during the summer or winter. One time my*

21 *wife called and the school bus operation said that they really*

22 *didn't have safe school bus drivers to bring them up all the way*

23 *up the hill and all the way back down since the road is so*

24 *narrow and so windy.*

25 *The next issue I have is I have nothing against this rock*

□

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1 *pit because it's so far away from our neighborhood, but when*

2 *there was a fire on 52 and they diverted all the traffic back*

3 *from sweet down to 52, I know there was an awful lot of traffic*

4 *but our road was just destroyed. We have that gravel with the*

5 *tar on it. It was all tore up. I was just wondering if these*

6 *semi's come down, what issues will we have with this road later*

7 *in our life? It's hard to get that road cleaned from the pits*

8 *and the holes and the dust abatement. When that road was*

9 *closed, at that time, it was nothing but dust and dirt. I know*

10 *he's only going maybe a half a mile but it's still a dirty road.*

11 *I was just wondering what we were going to do with that road*

12 *later in our time.*

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13 **MR. DAVID POOLE:** *These trucks won't be back to back. I*
14 *had to take that route home. I understand it was a nasty mess*
15 *there.*

16 **MR. JOHN SHOEMAKER:** *Yes it was. It was a nasty mess. I*
17 *know it's once in a great while and he's only going to do maybe*
18 *nine trucks a day but still, nine trucks a day times 5 days a*
19 *week, that's still going to get that road to be a dirty, powdery*
20 *road.*

21 **MR. DON WILKERSON:** *Everybody else causes it too.*

22 **MR. JOHN SHOEMAKER:** *Yes, sir. Those are my issues. I*
23 *really don't have an issue with it because the pit is so far*
24 *away from our subdivision. We won't hear the noise. We won't*
25 *see the noise. I just have more concern about the trucks coming*

□

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1 *up and down that road.*

2 *Ever since we moved there, they painted the lines on the*
3 *road, which made the road so much more safer for people coming*
4 *up and down it. It was one of the best things that Gem County*
5 *did for us because we're able to stay in our lane better now. A*
6 *truck still has 20 tons of rock in it. I used to be a truck*
7 *driver. I know what it's like to be a truck driver and that's*
8 *pretty much what I have to say.*

9 **MR. DAVID POOLE:** *Questions? Thank you.*

10 **MR. JOHN SHOEMAKER:** *Thank you, sir.*

11 **MR. DAVID POOLE:** *Okay. Other comments in neutral*
12 *position. Those in opposition.*

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13 **MR. DARREL PAGE:** *Darrel Dennis Page, 2133 Corral Road.*

14 *Like the previous man was speaking about on frozen dog road, it*

15 *is narrow. There is a line down it now but there are still*

16 *areas of the road that are starting to slump. Every time the*

17 *road's repaired it's to build up the areas that are slumping on*

18 *the down hill side. So heavy traffic may not be a benefit to*

19 *that road. I'm not an engineer. It's just an observation.*

20 *The only other observation about this situation is that*

21 *when -- well, my house faces to the east and looks at Ms.*

22 *MacGregor's mountain there. There are two or three different*

23 *small herds of deer that migrate around both sides of that*

24 *mountain. A couple of weeks ago I saw one just above where this*

25 *road is, feeding. So I don't know if this operation would*

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1 *impede wild life migration. Those are the only issues I have*

2 *about that.*

3 **MR. DAVID POOLE:** *Any questions, gentlemen? Thank you.*

4 *Further public testimony? Okay. If none, Ms. MacGregor, you*

5 *want to say something? You have an opportunity to rebut.*

6 **MS. CAROL MACGREGOR:** *I would just like to respond to some*

7 *of the concerns that have been stated. First of all, this is*

8 *not the same situation as we have had exposed here earlier,*

9 *which has been eluded and compared quite often in this hearing.*

10 *I want to point out that it is not the same. Shale Rock Road is*

11 *a paved road. It is a two-lane road with a median onto the*

12 *point of the Picket Corral Subdivision. Past that, for seven*

13 *eighths of a mile, it is not a paved road nor does it have a*

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14 *line but it is a two-lane road with a good base.*

15 *Secondly, about the deer, there are probably sixty deer in*
16 *that hole pasture. The hole pasture is a thousand acres. It's*
17 *a wonderful place for deer. One was killed on my property*
18 *illegally 3 years ago. We got the license plate of the man. It*
19 *was out of season. I called that fish and game man three times*
20 *to make sure he would be prosecuted. The man was never*
21 *prosecuted. I care for those deer very much and that's why*
22 *there's no hunting signs all over my property. I want them to*
23 *live and they can't eat a gravel pit.*

24 *MR. DAVID POOLE: Any further questions for Carol? Thank*
25 *you. We'll close the public portion of this meeting and bring*

□

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1 *it before the Board. Any comments, Commissioners? First of*
2 *all, any ex parte communication or site visits? Comments, Don.*

3 *MR. DON WILKERSON: Well I hate to bring it up but if we go*
4 *back to Mr. Reed's letter, one of his concerns is Frozen Dog*
5 *Road, which runs from the top of where Picket goes off clear at*
6 *the bottom. That's Frozen Dog and Shale Rock Road. Besides his*
7 *concerns of safety, and if you read it about no guard rails,*
8 *etc., it's a steep drop off on that one side. Also, the major*
9 *road base failure. I think we've heard some testimony here*
10 *tonight that the road is sloughing and I think anybody that*
11 *probably drives it says the same thing. So I think we need to*
12 *go back to our issue of some type of mitigation to relieve the*
13 *county taxpayers of possibly having to pay to improve that road*

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14 *if it's damaged in some way.*

15 *MR. DAVID POOLE: Or at least repair it to the state it is*
16 *in.*

17 *MR. DON WILKERSON: Right. So until I think we resolve*
18 *that issue, I believe we ought to continue this. Another item*
19 *I'd like to see done if we do that is the applicants get with*
20 *Mr. Reed to discuss dust abatement. It wasn't addressed in his*
21 *comment but I think that before we proceed we need to have his*
22 *comments on dust abatement. Thank you.*

23 *MR. LAWRENCE WHITSELL: Took the words right out of my*
24 *mouth. I agree.*

25 *MR. DAVID POOLE: All right. Well if that's the case, do*

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1 *one of you want to put this in the form of a motion?*

2 *MR. DON WILKERSON: I make a motion that we continue this*
3 *application, if everything comes together, to the December 10th*
4 *meeting. That the staff confer with the applicant on some more*
5 *information on daily trips. That the County Road Director,*
6 *possibly the County Engineer, get together and determine some*
7 *type of mitigation bonding to protect the condition of that road*
8 *and that we also discuss, prior to the next meeting, dust*
9 *abatement with Mr. Reed.*

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

11 *MR. LAWRENCE WHITSELL: I second it.*

12 *MR. DAVID POOLE: Been moved and seconded. Discussion?*
13 *Those in favor signify by saying I.*

14

15 (Motion carries unanimously.)

16

17 MR. DAVID POOLE: Thank you very much. So you will be in
18 contact with, at this point, you probably need to be in contact
19 with Carol and Mike both.

20 MS. CAROL MACGREGOR: If the road base is already
21 sloughing, how would that be our responsibility?

22 MR. DAVID POOLE: Well, where the responsibility lies is
23 the fact that it shouldn't get any worse. They've got to come
24 up with something that's going to give us a magic number to try
25 to deal with special use permits that are annually reviewed. So

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1 in that review period, we've got to have some kind of numbers to
2 work with. We're trying to avoid just saying no we're not going
3 to do this because the road is bad.

4 MR. DON WILKERSON: I hope it's not too late but I think
5 another issue ought to be addressed, possibly by the staff,
6 before next meeting. Should the Idaho Department of Lands be
7 involved in this even though it's private ground? Should there
8 be a reclamation plan required?

9 MR. DAVID POOLE: If it's a pit, I can tell you right now
10 they should be. They're going to find that out.

11

12 Public Hearing:

13 Item No. 4 A Stormwater Management and Soil Erosion
14 prevention Ordinance

15

16 *MR. DAVID POOLE: All right. Stormwater Management and*
17 *Soil Erosion Prevention Ordinance.*

18 *MR. BRAD HAWKINS-CLARK: Commissioners, I tried to give you*
19 *a little background on this in the cover memo. So I'm not going*
20 *to go much into that. Hopefully you've had a chance to read it.*
21 *You've heard tonight a couple of examples that I think are*
22 *actually really good examples of where some kind of ordinance*
23 *that deals with erosion prevention may come into play. It boils*
24 *down, in this case, to enforcement.*

25 *Last week I met for a couple of hours with the Kootenai*

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1 *County Planning Director up in north Idaho. They've got a lot*
2 *of hills and a lot of water but they have three full-time staff*
3 *to enforce their Site Disturbance Ordinance. They've had it*
4 *since 1995. The whole point is to protect neighboring*
5 *properties as well as standing surface water. Mostly a surface*
6 *water protection from settlements that's coming off. If you're*
7 *out there and you've got a backhoe and you want to do some*
8 *digging and you are 3 feet from your property line, chances are*
9 *that you may be causing some issues that may have run off or*
10 *drainage or settlements or other kind of issues to your*
11 *neighbor. Right now, if you want to build a driveway that's a*
12 *mile long or a half mile long in Gem County, regardless of where*
13 *that driveway is at, you can go build it and we don't require*
14 *you to have anything. The only time that we get involved is if*
15 *it's a private road. The Fire Department may go out there and*

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16 *check it, but in terms of looking to see how it was graded, some*
17 *basic standards, we don't do that. This ordinance doesn't*
18 *propose that we do. This ordinance is simply saying that if*
19 *you're going to disturb 1 acre of land and you have the*
20 *potential to have run off into a water of the United States,*
21 *which is surprisingly actually quite a bit of Gem County, then*
22 *you are actually required to go to EPA. Most of this is done*
23 *online. You fill out a form that puts them on notice that you*
24 *are going to be disturbing 1 acre of land or greater. You*
25 *basically give them a little site plan that says here's where*

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1 *we're going to put fences, heres where we're going to put some*
2 *other kinds of controls. If you've got certain steeps of*
3 *slopes, then you're going to have more controls. If it's super*
4 *flat, you may not have any. It's a plan that EPA has that can*
5 *be drawn up by anybody. They don't require it to be done by an*
6 *engineer but it does need to be done.*
7 *Right now there are some violations in Gem County that EPA*
8 *is looking into. There are people that have not obtained any*
9 *kind of what they call a CGP, a construction general permit.*
10 *Most of the time I don't think people know. So the question*
11 *kind of becomes -- David and I kind of talked about at what*
12 *point you just let the state do their thing. If a neighbor*
13 *wants to call and say my neighbors just graded off half the*
14 *hillside, we just say Gem County has nothing to do with it. Go*
15 *to EPA and let the EPA people go out to the site and go through*

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16 *their process. That's how it is right now.*

17 *This ordinance is largely driven by this grant that Gem*
18 *County received for stormwater management. So what it does is*
19 *it says if you're going to get a flood plain, if you're going to*
20 *be working the flood plain, if you're going to be building a*
21 *house side, if you're going to be building a road and you*
22 *disturbed more than an acre, go get your permit from EPA, show*
23 *it to us, and then the county will proceed.*

24 *The only enforcement that is involved with the county is*
25 *basically asking them to either prove that they have that permit*

□

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1 *or state that they have a waiver from it. So in terms of our*
2 *current staffing, we think that this is more realistic. Is it*
3 *really a step in the right direction? That's for you to talk*
4 *about and make a recommendation to the County Commissioners.*
5 *It's an ordinance that would obviously have some impact. So*
6 *will it have any on the ground impact? It's hard to say. My*
7 *brief experience here is that it will at least have some because*
8 *it's more of an awareness building thing. People are put on*
9 *notice that if you're going to be grading significant portions*
10 *of your property, you may be effecting somebody. The only real*
11 *expense that could occur in terms of impact, this is my limited*
12 *understanding, I haven't actually filed one of these permits*
13 *myself, but talking to contractors who do, the only real expense*
14 *is the controls that you have to put in place on particularly*
15 *steep situations. Sometimes they can get spendy to put the mats*
16 *down. Like if you're going to do hydroseeding, for example, on*

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17 *a steep hillside, you see them put down those mats and then they*
18 *spray hydroseed. You may have to water it. So there's*
19 *certainly a lot of labor involved in some of these things to*
20 *install them.*

21 *Hopefully that gives you the frame work for it and you can*
22 *talk about the pros and cons and see if you feel comfortable*
23 *with it, making a recommendation to the Board of County*
24 *Commissioners tonight.*

25 *MR. DAVID POOLE: Questions from the Commissioners for*

□

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1 *staff?*

2 *MR. LAWRENCE WHITSELL: Brad, who polices it? Does your*
3 *office police this to make sure everybody has got their CPG*
4 *permit? If somebody's out bulldozing a mountain down, who goes*
5 *out there and asks them if they've got their permit?*

6 *MR. BRAD HAWKINS-CLARK: Maria Lopez is one of the gals.*

7 *MR. LAWRENCE WHITSELL: EPA people. So they would be the*
8 *policing agency then. So we're really kind of indirectly*
9 *involved in this then.*

10 *MR. BRAD HAWKINS-CLARK: We're really kind of helping to be*
11 *the local eyes and ears. EPA has, I think, three people*
12 *statewide.*

13 *MR. DAVID POOLE: So if you want to use the governments*
14 *money, you've got to be the local eyes and ears. This is*
15 *required for the grant. It's part of this. This ordinance*
16 *needs to be in place. That's what prompted this.*

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17 **MR. DAVID HARGRAVES:** *Maybe to add on to the question you*
18 *just asked, the Planning and Zoning Department will catch these*
19 *things because it applies to every building permit, final plat,*
20 *private road application, flood plain development permit, etc.*
21 *It applies to almost every permit that the Planning and Zoning*
22 *Department issues. So that will be a check in the box before*
23 *they issue that permit.*

24 **MR. LAWRENCE WHITSELL:** *They check the box if they have*
25 *their CGP permit.*

□

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1 **MR. DAVID HARGRAVES:** *Or a statement that it is not*
2 *applicable or whatever.*

3 **MR. DAVID POOLE:** *So if you're going to disturb more than*
4 *45,000 feet of ground, you need to have the CGP. Okay.*

5 **MR. LAWRENCE WHITSELL:** *Whose exempt? Anybody less than an*
6 *acre of ground.*

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

8 **MR. LAWRENCE WHITSELL:** *But you have to have that stated*
9 *though.*

10 **MR. DAVID HARGRAVES:** *Yes.*

11 **MR. LAWRENCE WHITSELL:** *Right. You have to have some*
12 *document stating you're exempt and you don't need the permit.*

13 **MR. DAVID POOLE:** *This documentation, what's it going to*
14 *be, Brad? A statement to the fact that you're doing less than*
15 *the 45,360.*

16 **MR. BRAD HAWKINS-CLARK:** *Yeah. We're going to rely on the*
17 *applicant to provide that information.*

18 **MR. DON WILKERSON:** *Just look at your ordinance, under*
19 *section 3. In order for the applicant or the person to have to*
20 *file this, he has to meet all those conditions because it*
21 *requires the application to the Development Services Department*
22 *to get a permit, which involves grading, fielding, excavation,*
23 *earth removal or similar activities. Such activities disturb*
24 *more than one acre of ground and has ability to discharge*
25 *stormwater into the waters of the United States. So if he's out*

□

1 *there disturbing 10 acres but it's out there in the middle of*
2 *the desert, he doesn't have to apply for the permit.*

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

4 **MR. DON WILKERSON:** *Okay.*

5 **MR. BRAD HAWKINS-CLARK:** *That is correct. It is largely a*
6 *surface water protection kind of thing.*

7 **MR. DON WILKERSON:** *In other words, he has to meet this*
8 *criteria before he applies for a permit. Okay. Under section*
9 *4, item 2, the written statement that is proposed, the proposed*
10 *development activity does not require a CGP through the EPA.*
11 *You said you were relying on the applicant to give you that*
12 *information. I would say he needs to go through the EPA and the*
13 *EPA would tell him, with what figures he inputs, would tell him*
14 *it's not required. Wouldn't that be right? Wouldn't you*
15 *require that documentation to support the applicant?*

16 **MR. BRAD HAWKINS-CLARK:** *Yeah. David raised that question*
17 *too. It's a good one. That piece may need a little bit more*

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18 work. The CGP, as I understand it, it's basically an umbrella.

19 It's something that they issue and renew. It's kind of like a

20 statement that EPA puts out there that says we are allowing

21 anybody in the United States this permit. It's available.

22 MR. DON WILKERSON: Blanket permit.

23 MR. BRAD HAWKINS-CLARK: Blanket permit. So it's not a

24 physical permit. It's like a -- the only way I can think of it,

25 the way it's described, they basically have said this is the law

□

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1 and it's your responsibility to fill out a notice of intent.

2 That's the NOI that you sometimes here contractors talk about.

3 MR. DAVID POOLE: It's your responsibility under certain

4 conditions or regardless?

5 MR. BRAD HAWKINS-CLARK: Under the conditions that are

6 listed under section 3.

7 MR. DAVID POOLE: All right. So if any of those conditions

8 apply --

9 MR. BRAD HAWKINS-CLARK: You basically go and you do it at

10 their office in Boise or you go online and fill out this notice

11 of intent. EPA has 7 days to review that. Most of the time

12 they don't even send you something back that says you're

13 approved.

14 MR. DON WILKERSON: But it says here in item 1, a copy of

15 environmental protection instruction general permit is issued.

16 MR. BRAD HAWKINS-CLARK: And I drafted that before talking

17 to the guy at EPA. That will need to be changed but basically

18 the notice of intent we can require them to apply. It's just

19 *not the actual CGP.*

20 *MR. DON WILKERSON: So basically what you're rely ing on to*
21 *see whether this is required is what the applicant tells you*
22 *he's going to build a road that's going to involve more than an*
23 *acre. Then you have to make a determination whether he has to*
24 *have a permit or he's waived. Really, that comes back to you.*

25 *MR. BRAD HAWKINS-CLARK: It does.*

□

1 *MR. DON WILKERSON: Section 5, the Administrator and/or his*
2 *or her designated staff shall insure proper notification to all*
3 *applicants of the requirement noted here in. I understand that,*
4 *but I think you ought to get a little more tougher. Instead of*
5 *saying shall require applicants to submit acreage calculations,*
6 *activity descriptions, etc. so you can make the determination*
7 *whether a permit's required or not, I think you ought to put the*
8 *proof back on the applicant. They should have to provide you*
9 *with something. You shouldn't have to go through a -- you may*
10 *want to do it to check, but you shouldn't have to go through an*
11 *application to see if he's got more than 1 acre involved. I*
12 *think you ought to be a little more forceful in that section.*
13 *Sounds like you're going to have to rewrite it anyway.*

14 *MR. BRAD HAWKINS-CLARK: This isn't a new regulation. The*
15 *regulation has been there since 1995.*

16 *MR. DAVID POOLE: It's not even a bad regulation. The*
17 *point is we've got enough regulation already. Managing the*
18 *water that's on your property is a very important issue.*

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19 **MR. DON WILKERSON:** *So it looks like there's a deadline to*

20 *meet in the next 6 or 7 weeks. So maybe I shouldn't say this.*

21 *Are you looking for us maybe to recommend approval to the Board*

22 *of County Commissioners with corrections?*

23 **MR. BRAD HAWKINS-CLARK:** *That would be the ideal situation.*

24 **MR. DON WILKERSON:** *Okay. I make a motion that we*

25 *recommend approval of this ordinance to the County Board of*

□

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1 *Commissioners with changes suggested at this meeting.*

2 **MR. DAVID POOLE:** *Is there a second to this motion?*

3 **MR. LAWRENCE WHITSELL:** *I second it.*

4 **MR. DAVID POOLE:** *Moved and seconded. Discussion on the*

5 *motion? All those in favor signify by saying I.*

6

7 *(Motion carries unanimously.)*

8

9 **MR. DAVID POOLE:** *Okay.*

10 **MR. BRAD HAWKINS-CLARK:** *Thank you.*

11

12 *Regular Meeting:*

13 *Item No. 1 Items from the Public*

14

15 **MR. DAVID POOLE:** *Items from the public.*

16

17 *Regular Meeting:*

18 *Item No. 2 Election of Officers*

19

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20 MR. DAVID POOLE: Election.

21 MR. LAWRENCE WHITSELL: Didn't we just do this election of
22 officers?

23 MR. BRAD HAWKINS-CLARK: That's a carry over I think.

24 MR. DON WILKERSON: I make a motion that we vote Mr. David
25 Poole to continue as Chairman for another year.

□

99

1 MR. LAWRENCE WHITSELL: I second the motion.

2 MR. DAVID POOLE: Discussion on the motion. All right.

3 All those in favor signify by saying I. Opposed same sign.

4

5

6 (Motion carries unanimously.)

7

8 MR. DAVID POOLE: We have other offices too, right?

9 MR. DON WILKERSON: But I don't think we have to worry
10 about a Vice Chairman because she was just elected.

11 MR. DAVID POOLE: So she has more time. Don't we have
12 somebody that's supposed to sign? A secretary or something
13 isn't it? I mean, I'm signing things that should be signed by
14 someone else.

15 MR. DAVID HARGRAVES: We can look into that and get back to
16 you.

17

18 Regular Meeting:

19 Item No. 3 Items from the Planning Director/Administrator &

20 *Item No. 4 Items from the Deputy Prosecuting Attorney*

21

22 *MR. DAVID POOLE: Items from the Planning*

23 *Director/Administrator.*

24 *MR. BRAD HAWKINS-CLARK: I think you guys are doing a great*

25 *job.*

□

100

1 *MR. DAVID POOLE: That's it.*

2 *MR. BRAD HAWKINS-CLARK: The Planning Commission. That was*

3 *the only thing I had written down. Next week, believe it or*

4 *not, the Board of County Commissioners, the City Council, and*

5 *the new Mayor are meeting to finalize -- I don't know if they're*

6 *going to do it for sure. David drafted an ordinance to put this*

7 *Planning Commission in place and they're going to be talking*

8 *about that on the 19th. This is that joint Planning Commission*

9 *not Zoning Commission/Planning Commission that would basically*

10 *be there to talk about the Comprehensive Plan.*

11 *MR. DAVID POOLE: So we'd no longer be Planning and Zoning.*

12 *We'd just be Zoning.*

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

14 *MR. DAVID POOLE: Good. Does that make it easier?*

15 *MR. DAVID HARGRAVES: You won't have to consider the*

16 *Comprehensive Plan changes or adopt the ordinances, like this*

17 *ordinance tonight would go to the joint Planning Commission and*

18 *then it would go to the governing Board. So you'd be spared*

19 *some of that kind of thing. We'd still hear all the*

20 *applications.*

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21 **MR. LAWRENCE WHITSELL:** *Where's this going to be held,*
22 *Brad?*

23 **MR. BRAD HAWKINS-CLARK:** *City Hall. This is just for them*
24 *to basically agree on the composition of the committee. I think*
25 *there's basically three people from the city limits, three*

□

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1 *people from the unincorporated.*

2 **MR. DAVID POOLE:** *Any other things?*

3 **MR. WILL MAUPIN:** *Brad, I was reading through the minutes*
4 *of this Capital Improvement Program and in there it talks about*
5 *there was some document that Paramatrix put together that you*
6 *were going to see if you could get for us that would break that*
7 *down.*

8 **MR. BRAD HAWKINS-CLARK:** *Actually, we did finally get the*
9 *maps last week from Paramatrix. Sorry we didn't have a chance*
10 *to get those books put together for you, but we'll do that for*
11 *December.*

12 **MR. LAWRENCE WHITSELL:** *We'll all get copies of that in*
13 *greater detail.*

14 **MR. BRAD HAWKINS-CLARK:** *Yes.*

15 **MR. WILL MAUPIN:** *Did it go before the Commission?*

16 **MR. BRAD HAWKINS-CLARK:** *That is a mitigation tool. It*
17 *wasn't aimed to be an item that required a public hearing. It's*
18 *kind of up to interpretation about should it have gone.*

19 **MR. WILL MAUPIN:** *I've been getting a lot of questions*
20 *about it. That's why I'm asking.*

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21 **MR. DAVID HARGRAVES:** *It's a mitigation tool. The State*
22 *Code allows you to require mitigation of impacts of any kind,*
23 *especially subdivisions. Development like the special use*
24 *permit too. Particularly, in the context of subdivisions, you*
25 *can require the mitigation of the impact. In order to*

□

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1 *understand what the impact is you have to have some sort of*
2 *systematic way for evaluating what that impact is. So that's*
3 *what this Capital Improvement Plan does. It's a study. It says*
4 *here's what the impact is of such and such kind of development.*
5 *I haven't even read the whole thing. So I'm just kind of*
6 *paraphrasing what I understand it is. It's kind of evidence for*
7 *you to consider about the impact of development. It also*
8 *proposes a way to mitigate that impact by paying fees. So it's*
9 *optional for the individual whether they want to pay the fee or*
10 *we can have them dedicate land. We can have them make the road*
11 *improvements themselves. So it's kind of a tool for mitigation*
12 *is the way we're using it. If it was going to be you have to*
13 *pay the fee, that's an impact fee. And we have to follow impact*
14 *fee statutes, which are very rigid and have a lot of*
15 *requirements. This is just one of the requirements. This*
16 *Capital Improvement Plan is just a part of those requirements.*
17 *So we're not using it as an impact fee.*

18 **MR. BRAD HAWKINS-CLARK:** *Are you interested in having an*
19 *hour sit down presentation on it?*

20 **MR. WILL MAUPIN:** *Yeah.*

21 **MR. BRAD HAWKINS-CLARK:** *It is a big deal and people should*

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22 *be asking questions about it. It makes sense that they go to*
23 *you as Commissioners.*

24 *MR. WILL MAUPIN: They were telling me that it passed and I*
25 *hadn't seen anything on it. They were wondering why it wasn't*

□

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1 *open for public comment and wondering how it got through. I*
2 *guess since it isn't adopting an ordinance or something like*
3 *that it wasn't required. It's a tool that law allows you to*
4 *use; is that what I'm hearing?*

5 *MR. DAVID POOLE: It can be brought as resolution.*

6 *MR. DAVID HARGRAVES: Yeah. The Board of County*
7 *Commissioners have kind of taken notice that this is a usual way*
8 *to evaluate. So we're going to use it as a tool and it doesn't*
9 *need to be passed by ordinance.*

10 *MR. BRAD HAWKINS-CLARK: And nothing that they do, unless*
11 *it fits the executive statute, can be done without notice. So*
12 *every discussion that they had about the CIP was on their*
13 *agenda. Anybody could have come to hear those meetings. I*
14 *mean, none of them were behind closed doors. There wasn't a*
15 *public hearing on it.*

16 *MR. DAVID POOLE: Are we on item 4 or 5?*

17 *MR. DON WILKERSON: How about item 4?*

18 *MR. DAVID POOLE: I assumed that it was a relapsed portion*
19 *there between 4 and 5.*

20

21 *Regular Meeting:*

22 *Item No. 5 Items from the Planning and Zoning Commission*

23

24 *MR. DAVID POOLE: Do you have something, Don?*

25 *MR. DON WILKERSON: Let me throw this out there. What's*

□

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1 *that study that you were working on about the roads? What do*

2 *you call it? That one we were just talking about.*

3 *MR. BRAD HAWKINS-CLARK: CIP. Capital Improvement.*

4 *MR. DON WILKERSON: Why don't you use those figures to come*

5 *up with a dollar figure for the roads? Figure out the total*

6 *amount of miles used and use that as a dollar figure.*

7 *MR. BRAD HAWKINS-CLARK: Actually, that's a good idea.*

8 *MR. DAVID HARGRAVES: You guys need numbers to look at. I*

9 *think if I was a developer, I would want to come in and work*

10 *with the Road Department. I would want to work with the*

11 *Planning and Zoning Commission and come up with something*

12 *reasonable because if they don't you can say we're going to stop*

13 *your application right here. We're going to get an engineer to*

14 *do this. We want you to present us with an engineer study about*

15 *what your impact is. You can require that information and you*

16 *can require studies. It will just delay their application and*

17 *it might come out cheaper for them to come up with something*

18 *reasonable in the beginning then go through all that.*

19 *MR. DAVID POOLE: From both sides, David, we want the*

20 *economy in the County to be there. We want to improve the*

21 *economy. So I guess, as Commissioners, we need to be working*

22 *both sides of that fence and come up with something reasonable.*

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23 *I don't know what that is. Nothing I've heard so far is*

24 *reasonable.*

25 *MR. DON WILKERSON: What's wrong with STP Concrete? Are*

□

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1 *they just waiting for us to make some other rulings?*

2 *MR. BRAD HAWKINS-CLARK: Don't know. Their e-mails just*

3 *say we're still working on stuff. Please continue.*

4 *MR. DON WILKERSON: Okay. Also, can I commend the Board of*

5 *County Commissioners at this meeting? I'd like to commend them*

6 *for procuring a future pathway easement through River Ranch.*

7 *That's something we couldn't get done here. How they did it I'm*

8 *not going to say but I think it's good.*

9 *MR. DAVID HARGRAVES: It was a give and take thing.*

10

11 *Regular Meeting:*

12 *Item No. 6 Adjourn*

13

14 *MR. DON WILKERSON: I make a motion that we adjourn this*

15 *meeting.*

16 *MR. WILL MAUPIN: I second.*

17 *MR. DAVID POOLE: Seconded and approved unanimously by Will*

18 *Maupin.*

19

20

21

22

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23

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25