

**OFFICE OF THE BOARD OF COUNTY COMMISSIONERS  
OF BLAINE COUNTY  
REGULAR MEETING OF THE MARCH 2022 SESSION**

**First Day**

**Tuesday, March 1, 2022**

Pursuant to Statutory Provisions, the Board of Blaine County Commissioners (BCC) met this day at 9:00 a.m. Present were Chairman Dick Fosbury, Vice-Chair Angenie McCleary, and Commissioner Muffy Davis; Administrative Assistant Morgan DeWitt; Recording Secretary Sunny Grant and Deputy Clerk-Auditor-Recorder Joana Guerrero. Blaine County Administrator Mandy Pomeroy and County Clerk Stephen McDougall Graham was present for part of the morning session.

Some participants in this meeting were by web conference or teleconference.

Chairman Fosbury called the meeting to order at 9:01 a.m.

**PUBLIC COMMENT:**

**CONTRACTS, GRANTS AND AGREEMENTS**

**Sun Valley Board of Realtors and Multiple Listing Service License Agreement**

Blaine County Assessor Jim Williams said they provide quarterly sales information to value properties accurately. Blaine County Chief Deputy Prosecuting Attorney Tim Graves changed the dates to match fiscal year and removed the indemnification clause.

**Davis moved, seconded by McCleary, to renew the updated agreement between Sun Valley Board of Realtors for a 3-year term ending on September 30, 2025. Motion passed unanimously.**

**COUNTY DEPARTMENT REPORTS**

**County Road and Bridge - Steve Thompson**

- Two team members are now LHTAC Road Scholars. They are currently working on Road Masters. One employee is taking early retirement due to the housing crisis. The department is having a difficult time finding new employees.
- Update on Indian Creek Bid: Blaine County Engineer Jeff Loomis is finalizing the bid package and has forwarded to the Blaine County Clerk to review wording. Thompson has notified construction companies that he will be needing bids soon.
- Department of Road and Bridge is waiting to receive recycled asphalt from Western Construction. Recycled asphalt will be stockpiled in Bellevue for future projects.
- Crews are working on potholes that occurred from the cool temperatures this winter. They are also servicing equipment to prepare for the upcoming season. The department has received calls regarding Trail Creek closure, Thompson said the road is not ready for public use.
- Transportation Plan Update: Loomis is working on finalizing the outline. The BCC preview is scheduled for early fall.
- Mountain Rides has expressed that they would like a crossing at the Ohio Gulch intersection. They would like to insert a light, small park-and-ride lot and a bus pullout. There maybe Transit Infrastructure funding available to Mountain Rides ITD has begun the first step in traffic counting at this intersection. ITD's timeline is around seven to eight years but Mountain Rides is hoping for a shorter timeline. Fosbury mentioned that this would require for Blaine County, neighbors and ITD to contribute support for a project of this magnitude.

**County Administrator - Mandy Pomeroy**

- Update on ARPA Funds: First round of requests has been reviewed. Pomeroy is working with McDougall Graham on finalizing ARPA contracts for the BCC to review. There are seven new applications for the next round of ARPA Funds distribution. There will be a special meeting on Monday March 14, 2022 to review ARPA Fund request applications and an Ambulance District Strategic Planning Workshop.
- BCC requested Pomeroy and McDougall Graham to look for different alternatives to present and review ARPA Funds applications.

**COLORADO GULCH BRIDGE - PROPOSED EASEMENT RELOCATION**

GIS Analyst Chris Corwin said FEMA approved funding last week and Fosbury signed documents on Thursday and they have also been signed by Idaho Office of Emergency Management (IOEM). Biota may now proceed with stream restoration on the side channel. They are facing a difficult deadline of March 15. With snow in the area, they may have to postpone restoration until summer. Land Use and Building Services Director Tom Bergin explained modifications in the agreement. Fosbury mentioned that The Wood River Land Trust has requested for the road to be more of a trail and not an actual road. Road will be 10ft wide and be constructed to support traffic, maintain the bridge and give emergency

access. Blaine County Floodplain Manager Kristine Hilt received a request for a minor modification to the existing stream modification. Hilt wants to discuss flood concerns within her department before the final agreement goes to the BCC. The permit holders requested for wood plant material to construct project. They would like to use vegetation that is removed from the site. Fosbury mentioned that there is no final design on the type of culvert for the second channel. BCC in agreement with the bridge alignment, and would like for agreement to be presented to WRLT and begin project as soon as possible.

### **CONSIDERATION FOR REGIONAL HOUSING COORDINATION SERVICES PROPOSAL WITH AGNEW-BECK**

Ketchum Housing strategist Carrisa Connelly contracted Agnew-Beck to consult The Ketchum Housing Action Plan in the housing crisis. Agnew-Beck presented a PowerPoint regarding services they provide. Fosbury stated that Blaine County is already participating with The Ketchum Action Plan in regards to housing needs. Ketchum could designate funds from their LOT to go towards housing. Agnew-Beck stated that they will be focusing on The Ketchum Action Plan.

Fosbury and McCleary are both questioning if this would be something that falls under The Blaine County Housing Authority. BCHA was created for housing and development of affording housing for the whole county. Connelly, expressed that they are creating an action plan for Ketchum within months. Working on an action plan for the county would take more time.

Sustainably Manager Lynne Barker is also on The Ketchum Action Plan committee. Barker expressed that this should be a regional effort because Ketchum can't alleviate the housing crisis alone. She suggested that it would be beneficial if the County made a small investment. Agnew-Beck could then expand outside the City of Ketchum. Fosbury would like for local authorities to discuss if this is something they want to participate in, and how it would be organized.

### **APPOINTMENT OF BECKY LOPEZ TO BCHA BOARD FOR FIVE YEAR TERM**

**McCleary moved, seconded by Davis, to appoint Becky Lopez for a five-year term to begin March 1, 2022 and expire March 1, 2027. Motion passed unanimously.**

### **BREAK**

### **COVID UPDATE**

#### **Blaine County COVID-19 Risk Level Plan –**

Blaine County's risk level is at a high risk, but cases are declining.

Blaine County School District modified the mask requirements to optional as of March 1, 2022.

City of Hailey still has the mask mandate in effect.

County policy regarding COVID sick time will remain intact.

### **BOARD of COUNTY COMMISSIONER'S REPORTS**

#### **Letter of Opposition to House Bill 631**

McCleary facilitated a letter to go to the state legislature in opposition to House Bill 631 which would remove all local ability to manage a pandemic or health crisis in the future. House bill 631 would prohibit the requirement of face masks in any jurisdiction.

- **South Central Public Health Board Meeting**

In the meeting McCleary attended they decided on what policy hand book they were going to adopt. Policy handbook needed to be in place by March 1, 2022 for insurance purposes.

- **Idaho Association of Counties Property Tax Replacement Discussion**

Legislators are proposing to increase sales tax to the highest in the United States. Those funds would be used to reduce property taxes in certain cases. It is not clear how this would be implemented or managed. McDougall Graham is expecting a county level analysis from IAC that would be compared to local analysis. The tax bill is in the draft stage and is scheduled to be introduced July 1<sup>st</sup>. This bill would impact temporary and permanent levies like the Land, Water and Wild Life Levy.

- **Southern Idaho Solid Waste February Board Meeting**

Fosbury requests for proposals to provide engineering services for the district for the next 5 years. They received seven different proposals from in and out of state companies. Fosbury was involved in the evaluation and assisted in putting together recommendations for the BCC. Fosbury and Lynn Barker are reviewing proposals from international and local companies. Per state code it's required to have a set list of five consultants.

- **Housing Action Plan**

Regarding the eviction of the twenty families in the community house district, Fosbury sent out communication asking for public support and humanitarian housing offers. Property owner aided the relocation of two of the families. He also offered a rebate for the last two months of rent if they vacate the premises on May 31, 2022. Landlord is evaluating what units are relocatable and searching for alternate locations.

Fosbury is discussing federal housing requirements by IHFA. These requirements limit who qualifies for housing at the Blaine Manor. ARCH is working on a grant that will help families that need housing but don't meet federal requirements. Half of Blaine County's applicants looking for housing don't meet

federal requirements. The Blaine County Housing Authority currently has two hundred and seventy families on the waiting list.

- **Other**

McCleary attended a panel regarding seasonal winter wildlife and recreational issues. The webinar explained how the community can deal with seasonal restrictions in the future.

Davis attended the LatinX/US Task Force meeting. The Task Force is bringing Activist Dolores Huerta leader of United Farm Workers. She will be doing presentations all over the community on March 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> in honor of Women's Month.

City of Bellevue Council is working on an LOT initiative. This tax would provide funding and revenue to upgrade city streets. Hotels and short-term rentals would be taxed at 3%

The City of Bellevue is working on the sewer infrastructure capacity. Bellevue Mayor Goldman does not have the needed data from Keller Associates to determine the kind of funding Bellevue would be eligible for. Staff is currently recording flow meter data on excel spread sheets. Bellevue could qualify for ARPA and state funding.

### **CONSENT CALENDAR**

Transfer of Beverage License Location Scout Wine & Cheese LLC dba Scout Wine & Cheese to 360 East Ave Unit 8, Ketchum.

**McCleary moved, seconded by Davis, to approve the Consent Calendar for Tuesday March 1, 2022. Motion passed unanimously.**

### **BREAK**

### **LAND USE and BUILDING SERVICES HEARINGS**

**Title 9 Zoning Regulations Text Amendment - Tiny Homes on Wheels. A public hearing on and consideration of County-initiated amendments to Blaine County Code, Title 9, Zoning Regulations, Chapter 2, Definitions; and Chapter 3, Section 11: Accessory Dwelling Units, to allow Tiny Homes on Wheels as permissible types of housing. The amendments were initiated by the Board of Commissioners on October 12, 2021. The Planning & Zoning Commission recommended approval on December 9, 2021.**

County Planner Alison Kennedy Read Public Notice.

**McCleary moved, seconded by Fosbury, that notice for this hearing was adequate. Motion passed unanimously.**

- **New Concept for Blaine County: Tiny Homes**

Community Development Director Lisa Horwitz presented a PowerPoint presentation on Tiny Homes on Wheels (THOW). There is currently one THOW in the Meadows Trailer Park in Ketchum. Tiny Homes are a recreation vehicle that are 150 to 400 sq ft in size. It provides independent living facility for one or more persons. It has the permanent provisions for living, sleeping, eating and sanitation. THOW's have been certified by manufacture to meet ANSI 119.5 standards from the American National Institute. THOW are licensed by the State of Idaho as an RV. They are on wheels but not made for travel like an RV. Although it does have similar characteristics to a traditional home it is not considered a building. A THOW will receive a zoning review but it would not be reviewed by the building official. In order to be in compliance with South Central Health and The State of Idaho Plumbing Program, THOW must be licensed and registered by the Idaho Department of Motor Vehicles, must be certified by a third-party inspector and must be connected to water and the sewer system. Owners are responsible for the aspect of health, safety and welfare within the THOW. Horwitz finished presentation stating that THOWs are an affordable alternative and could be part of the solution for the county's housing crisis. Blaine County Building Official Jeff Giese put together a list of Tiny Home concerns. Giese's biggest concern is the ANSI standards. ANSI standards give the option for the THOW to have a recreation vehicle heating system or manufacture mobile home heating system. These systems could over load themselves and be a fire hazard. ANSI insulation standard is critically low, with so little insulation it would make it easy for mold and dry rot to occur. ANSI egress window standard is 18-inch width versus Blaine County's building code is 32-inch width. Tom Bergin shared some of the same concerns as Jeff Giese. Do these units require a permanent foundation? Would they withstand the climate in this area? Will tiny homes have similar issues to motor homes and would they really be a long-term residence? Fosbury is an advocate of this type of housing. It has been a national movement for approximately twelve years and continues to progress. The Tiny House Alliance is working nationally to develop ASTM standards higher standards than ANSI.

Certified THOW Inspector Robin Butler has a background in construction. He mentioned that ANSI 119.5 is not efficient for high altitudes and cold desert climates. His company created ANSI+ standards that meet Blaine County's structural requirements. ANSI+ addresses some concerns Jeff Giese mentioned above. The BCC is concerned with the ANSI standards and the safety of the tiny homes and would like to see stricter standards established.

### **Public Comment:**

Big Wood Tiny Homes owner Sage Sauerbrey is grateful that Blaine County is discussing THOWs.

He is a local resident and believes THOWs can be part of a solution to aid the housing crisis. He agrees ANSI 119.5 is not sufficient enough for our climate and believes ANSI+ standards are more fitting. He mentions the THOW he is constructing can withstand high altitudes and cold desert climate. Blaine County Realtor Julie Evans is an advocate for tiny homes, she would like for this to become a possibility in Blaine County. She acknowledged the housing crisis in the county and inflated house prices. She is hoping that she could put a Tiny Home on her property for her daughter.

- **432 Warm Springs Rd. - Appeal of Variance Decision. Board consideration of an appeal of the Hearing Examiner's approval of an application by Dana Jo & Greg Cameron for a variance to reduce the front yard setback for the construction of a new single-family residence. The 0.61-acre property is Lot 44, Blk 2, Board's Lower Ranch.**

Also present: Blaine County Chief Deputy Prosecuting Attorney Tim Graves; Land Use and Building Services Deputy Director Kathy Grotto; appellants Ryan Campbell; Jock MacGregor, Rebecca MacGregor, Victoria Jensen, Peter Jensen, John Majors and Diane Crist; variance applicants Greg and Dana Cameron; and neighbor Gary Oyen.

**Disclosures:** Chairman Fosbury said he'd received a phone call from Greg Cameron on Wednesday, February 23. Cameron wanted to confirm the County had received all materials. Fosbury was driving at the time, and wasn't sure exactly what the call was about, but said he would check when he got back to the office. He did not discuss the issue further with Cameron.

This is an appeal of a decision granting a variance to Dana Jo and Greg Cameron, located in Board's Lower Ranch.

County Attorney Tim Graves said state statute required no notice. Bergin said they provided the same public notice for this appeal hearing as was provided for the Hearing Examiner's hearing. Bergin read public notice of this appeal hearing.

**McCleary moved, seconded by Davis, that notice for this hearing exceeds the standards of Idaho Code. Motion passed unanimously.**

County Attorney Graves said the BCC is confined to the record that was prepared by the Hearing Examiner. The BCC's review is limited to what is in the record, including arguments previously raised by the appellants and the property owners/applicants/variance holders, whose permit could be affected by this action. There will be no public comment. If the BCC has questions, they may ask questions at the close of each argument.

The BCC set 10 minutes for the appellant to state their case; 10 minutes for the owners/variance holders to make their argument, and up to 10 minutes for final comments by the appellant.

**Additional Materials:** Land Use Director Tom Bergin said he had materials that were part of the record that had not been given to the BCC, but could be shared with the BCC if they needed them.

Bergin explained that the Camerons' previously had a house on Lot 45A, which is in the red avalanche zone, and the house was destroyed by an avalanche. The Camerons' (applicants) previously proposed other replacement houses that were decided by administrative process that are not relevant to this appeal.

The Camerons' eventually purchased adjacent Lot 44A, and now own both lots. There are other lots in the area and across the road, and a National Forest to the south. Two avalanche studies have been done, and there are two different sets of avalanche lines. A portion of Lot 44A and the proposed new residence are in the blue avalanche zone, and the map shows one avalanche flow direction directly toward the proposed house.

A 60ft driveway right-of-way exists from the edge of the property line to about 20ft from Warm Springs Road. Warm Springs Road is a major paved road in this area, with 50ft setback indicated at the building envelope. The applicant's request to the Hearing Examiner is to intrude into the 50ft setback by 12½ft. The proposed house decks are under 30" and are permissible. Bergin explained that the "major" road classification was made years ago, and was mostly based on average daily traffic. Bergin said a "minor" road has a standard 25ft setback.

#### **Appellants:**

- Ryan Campbell, speaking for the appellants, asked if the variance was in the public interest. Campbell listed concerns put forth by various neighbors:
  - One on-sight notice sign posted for only the first hearing, and not posted for the next two hearings.
  - The original Cameron application was to rebuild a 1,722sf cabin, which complied with the CC&Rs and County Code; but the new proposed house is 3,300sf, and the HOA rescinded their original approval.
  - Proposed house doesn't comply with Board's Ranch Homeowners CC&Rs.
  - Variance criteria include "Whether the owner can derive reasonable use of land without a variance." Campbell said the owner could certainly derive reasonable use of the lot by reducing the size and height of the house.
  - "Whether the granting of such relief will be detrimental to the public health, safety, or welfare." Campbell said his house is next door to the proposed house, and an avalanche deflected from the

subject property could go right onto his property.

- Campbell said the County's variance guidelines state, "The variance is property specific, i.e., hardship must relate to specific characteristics of the site, not circumstances, desire or intentions of the owner." and "The hardship must arise naturally from the unique physical character of the property and not from the owner's actions, i.e., a hardship cannot be self-created." Campbell said a smaller structure would negate the need for a variance.
- Campbell said the height of the proposed height of the house is unclear; and the Conditions of Approval are unclear as to the allowable height of the structure.
- Gary Oyen, longtime Board's Ranch resident and Blaine County resident, but not a member of the appellant team and so not legally able to make a public comment, shouted that the BCC was wasting their time and wasting his time.

**Variance Holders' Rebuttal:**

- Greg Cameron said their family had had a cabin out Warm Springs for 50 years. They originally wanted to rebuild on their old lot, but after a couple years, could not get past County Code to build in the red avalanche zone. Cameron said the hearing examiner had already carefully studied all the appellants' concerns, including the size and height of the cabin.
- Dana Jo Cameron said they'd made adjustments to the cabin. She said the "hardship" is that they can't build on much of the lot's footprint. She said the County told them to get an HOA permit, which they did, and they sent the neighbors drawings of the new cabin. Cameron said 14 homes in Board's Ranch, including the Campbell house, are larger than their house, and some are on smaller lots. She said there were 14 variances granted to Board's Ranch owners since 1994. Cameron said all neighboring homeowners were invited to participate in purchasing the avalanche study, but declined to do so.

**Appellant's Rebuttal:**

- Ryan Campbell reiterated that he lives next door, and saw a previous avalanche deflected by a house hit another house. He said a bunch of people live within 300ft of this house, and they just want to see the Cameron house built within the building envelope and the CC&Rs.

County Attorney Graves said the Hearing Examiner's Findings state that legal notice was published in the *Idaho Mountain Express* on September 8, notice was mailed on September 7 to surrounding landowners within 300ft and to political subdivisions in Blaine County, and onsite notice was posted on the applicant's property by September 16, 2021. Graves said posting requirements are based on legal notice in the newspaper and U.S. Postal mailing notice, and not on making sure the notice actually gets in people's hands and repeatedly posted onsite when a hearing is continued. Bergin said Hearing Examiner Christopher Simms made sure on the record that people present at the first hearing were aware of the second hearing, and that people at the second hearing were made aware of the third hearing.

Graves said the County does not have authority to enforce CC&Rs, which are basically a contractual agreement among the homeowners, and, if necessary, are a civil case if there is a violation.

McCleary asked if the landowner had considered removing the lot line and working with one parcel. Cameron responded that the "hardship" was the avalanche zone, and Lot 45A is in the red avalanche zone.

**Deliberation:**

Fosbury said the size of the home and the CC&Rs are not relevant; the County only has regulations for the buildable area of the lot. The variance criteria asks if the hardship is created by the Camerons' design and footprint of this specific residence. Blaine County's height restriction is 30ft. Fosbury agreed that the land grade is uneven, but Bruce Smith, a licensed land surveyor, said in the Hearing Examiner's meeting that the house would not exceed 29ft height above natural ground. Fosbury said the house could be larger within the setbacks. He felt the 37½ft setback from Warm Springs Road was appropriate because Warm Springs Road in this location is on a straight alignment and it's not likely that traffic will veer off the road and damage the house.

Fosbury said the blue zone is reduced hazard, but still a hazardous area. He agreed with appellants' concerns about avalanche deflection to the south side, but deferred to avalanche surveyor Bruce Smith's expertise and statement that the avalanche is more likely to pile up against the house in a blue zone. Fosbury said the surveyor in a normal process would have provided the site plan with restrictions to the designer or licensed architect, but drawings submitted by the Camerons' are not stamped by a licensed Idaho architect.

McCleary questioned whether the Camerons' have reasonable use of the property without a variance. She felt a house could be built on this property in the blue avalanche zone without a variance; but she didn't feel this proposed structure hindered the public health and safety.

Davis said the BCC has to make their decision based on the record. She understands neighbors' concerns, but there isn't much buildable space on this lot, and the available avalanche information didn't consider the proposed house a public danger.

The BCC felt the hearing examiner made an appropriate decision in approving this variance.

Davis moved, seconded by McCleary, to direct counsel to draft the BCC's decision on appeal affirming the hearing examiner decision. Motion passed unanimously.

**LAND USE and BUILDING SERVICES**

• **Sullivan Appeal Reconsideration. Revised Decision.**

Also present: Appellant's attorney Ben Worst; and applicant's attorney Ed Lawson.

Blaine County Chief Deputy Prosecuting Attorney Tim Graves presented the BCC with a Modified Decision of Appeal on the Gruver Conditional Use Permit.

McCleary moved, seconded by Davis, to approve the Modified Decision of Appeal regarding a decision of the Blaine County Hearing Examiner granting the modification of an existing Conditional Use Permit to Megan Gruver to operate an outdoor recreational facility. Motion passed unanimously.

**APPOINT PLANNING & ZONING COMMISSIONER**

The BCC interviewed several applicants, and chose Nick Turko for the P&Z Commission at this time.

McCleary moved, seconded by Davis, to appoint Nick Turko to the Blaine County Planning and Zoning Commission for a three-year term beginning March 1, 2022 and ending on February 28, 2027. Motion passed unanimously.

**EXECUTIVE SESSION – §74-206 (1) (b) Personnel**

Davis moved, seconded by McCleary, to go into Executive Session, pursuant to Idaho Code 74-206 (1)(b), to consider the evaluation, dismissal or disciplining of County employees. Davis (aye), McCleary (aye) and Fosbury (aye). Motion carried unanimously.

**ADJOURN**

At the hour of 5:00 p.m., with no more business before them, the County Commissioners adjourned.

Attest: \_\_\_\_\_ Approved \_\_\_\_\_  
Stephen McDougall Graham Dick Fosbury  
County Clerk Chairman