

**OFFICE OF THE BOARD OF COUNTY COMMISSIONERS  
OF BLAINE COUNTY  
REGULAR MEETING OF THE JULY 2023 SESSION**

**Third Day**

**Tuesday, July 11, 2023**

Pursuant to Statutory Provisions, the Board of Blaine County Commissioners met this day at 9:00 a.m. Present were Chair Muffy Davis, Vice-Chair Angenie McCleary, and Commissioner Lindsay Mollineaux; Blaine County Chief Deputy Prosecuting Attorney Tim Graves; County Clerk Stephen McDougall Graham; County Administrator Mandy Pomeroy; Appraisers Appraiser Alyssa Cenarrusa and Erin Swanson; Deputy Clerk/Auditor/Recorder Specialist Brooke Baird; County Administrative Services Director Kristy Heitzman and County Services Specialist Deidre Dolce. Recording Secretary Sunny Grant wrote the minutes.

Some participants in this meeting were by webconference or teleconference.

Chair Davis called the meeting to order at 9:00 a.m.

**PUBLIC COMMENT:** None.

**CONSENT CALENDAR**

- **Beverage License Transfer:** Sun Valley Hospitality LLC dba Whiskey's to Whiskey's and Music LLC/Whiskey's LLC dba Whiskey's
- **Beverage License Renewals** for: The Valley Vino dba Sun Valley Wine Company; Armenta Bros Ketchum, Inc dba La Cabanita Mexican Restaurant; Main Street Inc dba The Sawtooth Club; Sun Valley Culinary Institute Inc dba Sun Valley Culinary Institute; Phoenix Restaurant LLC dba Vintage Restaurant; Kith & Kin LLC dba The Covey; East Side Magic LLC dba East Side Magic; Smokey Mountain Pizza & Pasta Ketchum LLC dba Smokey Mountain Pizzeria Grill; Luna LLC dba Enoteca; Aroma LLC dba Aroma; Whiskey's and Music LLC/Whiskey's LLC dba Whiskey's and Valley Wide Cooperative Inc dba Valley Country Store.
- July 7, 2023, Claims

**McCleary moved, seconded by Mollineaux, to approve Commissioners' Consent Calendar for July 11, 2023, as read into the record in two different segments. Motion passed unanimously.**

**TAX DEED HEARINGS**

- **RPH04780000520**

**230 West Myrtle Street, Hailey, ID – NorthStar Meadows Sub #1, Lot 52 Blk 5**

Blaine County Treasurer John David Davidson said the past due property taxes, late fees and interest had been paid yesterday by debit card, so the Blaine County Commissioners would not be taking tax deed on this parcel today.

- **RPH0000058013A**

**416 North 1st Avenue, Hailey, ID – Hailey Lots 13 & 14 Blk 58, 7,200 sf**

County Treasurer John David Davidson said the Treasurer's office made multiple attempts to contact the owner through certified mail and newspaper advertising. The owner now has 12 to 14 months to redeem the property by paying all delinquent years plus penalty and interest, and prepayment of 2023 taxes.

County Attorney Tim Graves said the Treasurer has made every attempt to contact the property owner, and the owner did not appear before the Blaine County Commissioners today to challenge the tax deed and/or offer attempt to pay, so a motion and follow-up action to take tax deed is appropriate.

**McCleary moved, seconded by Mollineaux, to take tax deed on Parcel RPH0000058013A 416 North 1<sup>st</sup> Avenue, Hailey, Idaho, Lots 13 and 14, Blk 58, according to statutory procedures and the fact that the 2019 property taxes have not been collected; and directed staff to draft a written decision. Motion passed unanimously.**

**RESOLUTION 2023-19 GENERAL PROCEDURES FOR THE  
CONDUCT OF MEETINGS AND HEARINGS**

The Blaine County Commissioners previously discussed setting general "ground rules" procedures for County Commissioners, Planning & Zoning, and other County-designated committees that conduct hearings. County Attorney Tim Graves said such procedures are required for Land Use-related applications and hearings and can serve as an educational document for new government leaders and employees. Graves reviewed the procedures with the Blaine County Commissioners, point by point:

- County Land Use Director Tom Bergin and the Blaine County Commissioners discussed ground rules for ex parte discussions and public comments, including non-County issues such as the wind farm in southern Idaho.
- Graves said the Blaine County Commissioners could consider providing an open comment time when people can make generic comments about anything, just to be heard by their elected officials.
- Mollineaux brought up situations where individuals had to be reminded to make their comments to

the Commissioners and not each other.

- Late Submittals: The Blaine County Commissioners discussed at length what to do when P&Z or the Blaine County Commissioners is in a quasi-judicial hearing and a neighbor, or perhaps the attorney for neighbors, submits a late petition with multiple signatures or multi-page brief or large amount of information. It would be difficult for the applicant and Commissioners or the public to absorb the information, and, if appropriate, make a rebuttal. Graves said everyone deserves to be heard, and the presiding body needs to allow reasonable time to review the submittal, perhaps by continuing the hearing.
- The Blaine County Commissioners discussed what to do if the P&Z, or Blaine County Commissioners, or staff requests more time to consider a late submission, especially if new material, including new evidence, is submitted shortly before deliberation; or if a statement is made in a public hearing that the presiding body needs to investigate or review or confirm. Graves said the public needs the opportunity to respond to such information as well.
- Graves and the Blaine County Commissioners discussed limiting individual public comments to three minutes; and what can be heard and not heard during the public comment period.
- The Idaho Open Meeting Law requires that at least one member of the Blaine County Commissioners or the County Administrator, or at least one member of the Planning & Zoning Commission must be physically present to hold a meeting to turn on the recording device and let the public know that the presiding body is in session, although offsite. State law has no provision for County staff to run a meeting.
- The Blaine County Commissioners discussed restricting public attendance at onsite visits with limited space where there are health and safety concerns for staff and the public; or at something like a mediation hearing.
- Graves will schedule a meeting to discuss “the record” with County Clerk Stephen McDougall Graham and Land Use and define “the record”—what it is, and who is responsible for it. Graves said “the record” is everything that is submitted to the Blaine County Commissioners, or that the decision-making body receives or sees, or hears in a public meeting for at least six months after the meeting. Graves said no one person can determine what is “important”. Graves said written minutes and transcribable hearing are required to be part of the record. Graves added that a letter or something submitted by an individual in public comment and requested to be “in the record” can be briefly described in the minutes; but a document or letter submitted as part of a Land Use application should be mentioned in the minutes and included in the official record.
- Graves explained withdrawal and/or resubmission of an application.
- Graves said sometimes a question is legitimate, or someone making a point of order; and sometimes it’s an inappropriate or opportunistic interruption to insert an opinion.
- The proper procedure for hearings and agenda notice for adopting an ordinance. Graves said an ordinance becomes law after Blaine County Commissioners approval, and upon publication in the local legal newspaper. An emergency ordinance becomes law after Blaine County Commissioners approval and posting in five public places.
- Resolutions are passed and take effect upon Blaine County Commissioners approval.

Chair Davis said the Blaine County Commissioners and staff will review this information for now and continue the discussion at a future Blaine County Commissioners meeting.

## **BREAK**

### **RESOLUTION 2023-20 SOLE SOURCE WAIVER FOR INDIAN CREEK ROAD IMPROVEMENT PROJECT**

County Attorney Tim Graves explained that only one vendor has the needed road material, so this Sole Source Waiver provides the County with an exemption to the competitive bidding requirements.

**McCleary moved, seconded by Mollineaux, to approve Blaine County Resolution 2023-20, a resolution of Blaine County Board of Commissioners declaring its intent to contract with LITHTECH™ as a sole source vendor for road stabilization technology associated with the Indian Creek Road improvement project. Motion passed unanimously.**

### **CONTRACTS, GRANTS AND AGREEMENTS**

#### **• Tyler Technologies Software as a Service Agreement**

Also present: Tyler Technologies David Doty; and County Deputy Recorder Whit Brower.

County Clerk Stephen McDougall Graham said the Recorder’s office is going to take this first step to engage Tyler Technologies to test how it works as the County’s overall Records Management software. County IT budgeted \$120,000 in FY2023 to begin to replace Computer Arts (CAI). Tyler Technologies David Doty explained that professional services will be billed in 2023; and the contract renewed in October 2023 (beginning of FY2024) for \$26,391 for the annual subscription fee, out of the Clerk-Auditor-Recorder budget.

The County Recorder, IT, and County Attorney Tim Graves have reviewed the Service Agreement. The Service Agreement includes a Non-Appropriations clause that allows the Blaine County Commissioners the discretion not to renew the contract each year.

**McCleary moved, seconded by Mollineaux, to approve Tyler Technologies Software as a Service Agreement for Records Management Software platform in the amount of \$59,850 for FY2023. Motion passed unanimously.**

## **COUNTY DEPARTMENT REPORTS**

**Clerk** – Stephen McDougall Graham said the USFS Secure Rural Schools (SRS) program provides annual funding for Title 1 roads and schools, Title 2 projects on Federal lands that benefit the County (including Resource Advisory Committee (RAC) weed mitigation and trail maintenance projects), and Title 3 municipal services.

McDougall Graham asked the Blaine County Commissioners if they would like to consider an alternate calculation of SRS funding over a period of years. McCleary said the USFS RAC projects make very good use of the County's SRS funding.

**County Administrator** – Administrative Services Manager Mandy Pomeroy said they recently visited the Indian Creek Road construction project site with an engineer from Ardurra, and no Stream Alteration Permits are necessary for the culverts. Road and Bridge crews are doing pre-construction work.

- Administrator Pomeroy said County Engineer Jeff Loomis is very busy. She asked the Blaine County Commissioners to consider a contract with Ardurra Engineering on an as-needed engineering basis.

**Sustainability Manager** - Andrew Mentzer

- County Administrator Pomeroy said former County Sustainability Manager Lynne Barker worked with several local partners to apply for a Building Resilient Infrastructure and Communities (BRIC) grant in 2022 to scope a microgrid project in Blaine County. That project was latered into the Hazard Mitigation Grant Program (HMGP); and Idaho Office of Emergency Management (IOEM) has extended the County's deadline to August 6. The total project cost is now \$281,850; the match will mostly be in-kind, with about a \$5,000 financial commitment. Mentzer was advised to stay with the original grant application and plans to submit additional information in order to remain competitive for HMGP funding.
- US Department of Energy approved \$100,000 funding through an Energy Efficiency Conservation Block Grant (EECBG) for the County to develop a Countywide Audit Program to review County and City buildings for energy retrofits and upgrades, as outlined in a concept paper submitted earlier this year.

## **BOARD of COUNTY COMMISSIONERS' REPORTS**

- **South Central Public Health District Meeting** – Commissioner McCleary said SCPHD had a regular meeting and Board meeting to discuss if they should continue the Public health District's school sex education program. McCleary said teen pregnancy continues to be a problem in the South-Central Public Health District. She thought the program was educational and tailored to the children, and very well received; but the State Legislature no longer wants to fund any kind of sex education. The Health District has money set aside for such education, but the majority of Board members do not support funding the program throughout the District.
- **Idaho Fish and Game wildlife education** – Chair Davis said Idaho Fish and Game, along with a wildlife biologist, are coming to Blaine County to do some wildlife educational programs, including black bear and mountain lion behavior, and the use of bear spray. The County may want to revisit an ordinance to prohibit feeding wildlife in Blaine County. A local resident expressed concern about sheep herding and sheep on Highway 75. County Attorney Graves said there isn't currently an ordinance regulating sheep herding; but he could research open range state law.

## **APPROVAL OF BOARD OF COUNTY COMMISSIONERS MEETING MINUTES**

- **May 4, 2023, Special Meeting**

**McCleary moved, seconded by Mollineaux, to approve the Blaine County Commissioner Special Meeting Minutes of May 4, 2023. Motion passed unanimously.**

**BREAK**

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

- **Loving Creek Stream Alteration Permit.** Public hearing and consideration of an application by Robert and Kathryn Gardner for a Stream Alteration Permit on Loving Creek, a tributary of Silver Creek.

Also present: RIVHAB Engineering River Engineer Jeanne McFall; Wood River Land Trust Restoration Specialist Jori McCune; Silver Creek Alliance Executive Director Greg Loomis; Idaho Fish and Game Magic Valley Regional Fisheries Manager Mike Peterson; and City of Sun Valley Community Development Director Brittany Skelton.

Blaine County Floodplain Manager Kristine Hilt read public notice.

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

**No disclosures.**

**New materials:**

- Exhibit D-1 - Land Use received a public comment from Wood River Land Trust Restoration Specialist Jori McCune, who provided support for restoration projects at Loving Creek to improve water quality and fish passage. The comment was given to the Blaine County Commissioners,

entered into the County record, and forwarded to RIVHAB River Engineer Jeanne McFall.

River Design Engineer Jeanne McFall summarized the project design, intended to restore natural water transport process by opening nearly six miles of headwater streams, and remove heat sinks to fix thermal problems in the watershed. Silver Creek Alliance Executive Director Greg Loomis said they've monitored Silver Creek for 14 years and will continue to do so. They will keep an eye on weed mitigation. A new road was expensive, so they're realigning the road adjacent to the new creek.

McFall said they will continue to work with the County on the final reseed design. Hilt confirmed that the final condition of all stream alteration approvals is a riparian revegetation plan, limited to native materials, that addresses all disturbed areas. The County requires financial security to guarantee the project is done according to plan; and Hilt is responsible to see that revegetation is done to plan and monitors the project for four years.

**Public comment:** None.

McCleary asked why the berm was not removed. McFall said the berm was on County land and would have been expensive. She said the berm provided a visual and sound barrier.

County Floodplain Manager Kristine Hilt recommended reconsidering this critical opportunity to remove the berm, which was put in by the railroad in the 1880s. She said removal would recreate wetlands to benefit the entire system and natural resources. Hilt thought it would be a great Blaine County Land, Water and Wildlife Levy project, now or in the future, with federal grants that are available.

County Attorney Tim Graves said the applicant should have a short-term land lease to do work on County land. Hilt said this application proposes some work on County property, which can provide access to the applicant and property owner to complete the project per approved design drawings. She can draft permit language with Blaine County Land Use Director Tom Bergin.

**McCleary moved, seconded by Mollineaux, to approve, with conditions discussed today, an application by Robert and Kathryn Gardner for a Stream Alteration Permit for within Loving Creek, finding that the proposal complies with applicable criteria set forth under Title 9 Chapter 17, Floodplain Overlay District and Riparian Setback District. Motion passed unanimously.**

- **Title 9 Zoning Regulations Text and Map Amendments related to Airport Vicinity Overlay District:** Continuation of a public hearing on and consideration of county-initiated text amendments to Blaine County Code, Title 9, Zoning Regulations, Chapter 18, Airport Vicinity Overlay District (AV) and also amending the Airport Overlay District Map boundaries (Chapter 4).

Friedman Memorial Airport attorney Jim Laski said he and County Attorney Tim Graves added a provision as 918-A10 (2), which referred to, "No land shall hereafter be used and no structure or other objects shall be erected, altered or modified, other than those uses permitted by ongoing Building, or (2) those land uses located on property owned or leased by Friedman Memorial Airport ..."

**Public Comment:**

- Marc Reinemann reminded everyone that these are guidelines, not requirements. He said Airport staff decided that guidelines are not sufficient for what the Airport is attempting to do here. Reinemann said he kept asking for an ordinance map and didn't get one. He said the revised map presented today is even more restrictive. Reinemann said he started talking to the City of Bellevue in 2013 about annexation for the Eccles parcel and was asked to wait for what is now over 10 years. He said Bellevue needs more tax base and more sewer hook-ups; and Eccles wants to subdivide the parcel.
- Evan Robertson, attorney representing Oppenheimer and Eccles Ranch properties, repeated his concerns from a previous meeting.

**McCleary moved, seconded by Mollineaux, to approve Blaine County Ordinance 2023-05, amendments to Title 9 Zoning Regulations, Chapter 18, Airport Vicinity Overlay District, an ordinance of Blaine County, Idaho, amending Title 9 Zoning Regulations, Chapter 18, Airport Vicinity Overlay District, by adding safety requirements for an area near Friedman Memorial Airport, and modifying existing requirements to apply to other airports in the County, Finding that it is in compliance with Blaine County Comprehensive Plan and has no negative impacts on potable water or on delivery of services. Motion passed unanimously.**

**LAND USE and BUILDING SERVICES**

Also present: County Land Use Planner Allison Kennedy.

- **Findings of Fact: Rubinfeld, Greenhorn Subdivision Lot 17-Plat Amendment**

**McCleary moved, seconded by Mollineaux, to approve the Findings of Fact, Conclusions of Law, and Decision regarding an application for Arthur and Ellen Rubinfeld for a Plat Amendment for the proposed building envelope shift for Lot 17 Greenhorn Subdivision. Motion passed unanimously.**

- **Findings of Fact: Gouley, 110 Lee's Gulch Rd. - Short Plat Subdivision and Plat Amendment**  
This was continued allowing Land Use to revise the Findings of Facts.

**ADJOURN**

**At the hour of 3:35p.m., with no more business before them, the Blaine County Commissioners adjourned.**

Attest: \_\_\_\_\_ Approved \_\_\_\_\_  
Stephen McDougall Graham Muffy Davis  
County Clerk Chair

DRAFT