

*****Monday, June 8, 2015 at 9:00 a.m.,** Commissioners met in regular session with Chairman Dan Dinning, Commissioner LeAlan Pinkerton, Commissioner Walt Kirby, Clerk Glenda Poston, and Deputy Clerk Michelle Rohrwasser.

9:00 a.m., County Civil Attorney Tevis Hull and Planning and Zoning Administrator John Moss joined the meeting for the purpose of discussing a traffic matter at Three Mile Road during the Road and Bridge report.

Road and Bridge Superintendent Jeff Gutshall and Assistant Superintendent Ken Arthur joined the meeting to give the department report.

Commissioners gave the opening invocation and said the Pledge of Allegiance.

Attorney Hull addressed a request for records from Fred Gabourie. Attorney Hull said Mr. Gabourie didn't realize the three day deadline associated with records requests and had said there wasn't a rush for the information he requested pertaining to Meadow Creek Road, Moyie River Road, and Union Pacific.

Chairman Dinning said Commissioners have been receiving comments from people regarding Union Pacific Railroad's project for a siding along the Moyie River Road and it seems like the authors of these emails think there is a process that Commissioners are involved in, but there is no process that Commissioners are going through for this project. Commissioners wondered about sending a mass email to those sending their comments to let them know there is no process Commissioners are going through. Attorney Hull said Commissioners could do that.

Airport Manager Dave Parker joined the meeting at 9:07 a.m.

Commissioners reviewed the status of a list of agreements for Commissioners to sign. Attorney Hull said as it pertains to the easement agreement with the Idaho Department of Lands he has the final draft and there is one issue with the Attorney General's office that he has to work through pertaining to language, but otherwise the agreement is close to being ready.

Chairman Dinning discussed signatories on documents that Commissioners need to sign for the airport improvement project. It was decided that for the sake of ease, the documents only need to have the chairman's signature.

Mr. Gutshall, Mr. Arthur, Mr. Brown, and Mr. Moss left the meeting.

9:10 a.m., Commissioner Kirby moved to go into executive session under Idaho Code 67-2345(1)f, to communicate with legal counsel for the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated regarding E.C. Enterprises. Commissioner Pinkerton second. Commissioners voted as follows: Chairman Dinning "aye", Commissioner Pinkerton "aye", and Commissioner Kirby "aye" Motion passed unanimously. 9:22 a.m., Commissioner Kirby moved to go out of executive session. Commissioner Pinkerton second. Motion passed unanimously. No action was taken.

Mr. Parker left the meeting.

Mr. Gutshall, Mr. Arthur, and Mr. Moss returned to the meeting.

No written Road and Bridge report was submitted. Mr. Gutshall said there is a little commercial subdivision located just south of the Three Mile intersection on what used to be called Walker Lane, but is now called Three Mile Road. This road came into the county's road system in year 2000 and there has been a bakery, childcare, etc., located on this cul-du-sac. An application from Ken Byler was received to development this commercial area. Mr. Moss said Mr. Byler is asking permission to park RV's and campers in that area. The issue is that the Idaho Transportation Department (ITD) was contacted about traffic concerns in that entering and exiting this road can only be done by a right turn in and right turn out situation. Mr. Gutshall said he just wants everyone to be on same page that when you comply with that, there will be RV traffic that wants to go south regardless. Three Mile Road is 350 feet from the light so RV's cannot get over to the left lane toward Homestead Loop. ITD doesn't have a place designated for U turns such as they do in Ponderay so RV's may want to use Three Mile Corner's space to turn around in. The county can deal with signage, but beyond that is an ITD matter, according to Mr. Gutshall.

Attorney Hull and Mr. Moss left the meeting.

Commissioner Kirby moved to authorize the chairman to sign Task Order 10 for the Airport Improvement Project. Commissioner Pinkerton second. Motion passed unanimously.

Mr. Gutshall briefly spoke of his upcoming retirement. Mr. Arthur provided the Road and Bridge Department report and said Road and Bridge is working to finish brushing on Old Highway 2 and then will start to clean the road shoulders. Mr. Arthur said Road and Bridge will chipseal Roosevelt Road, Deep Creek Loop, the south end of McArthur Lake Road, Ridge Road, etc. The crusher crew is about ready to get started. Mr. Gutshall discussed catching up on maintenance for paved roads. It is time to put chipseal on these roads for maintenance, according to Mr. Gutshall. Mr. Arthur said chipseal will also help drivers during fall and spring when the roads are slick. Commissioner Pinkerton asked about the schedule for work to Fawn Lane. Mr. Gutshall said Fawn Lane and Lion's Den Road will be worked on sometime after July 4th. Commissioner Pinkerton said he wanted to be sure because Mr. Burrows was asked not to apply dust abatement himself.

Chairman Dinning said he spoke to City of Bonners Ferry representatives and thinks they're ready to work on the easement near the county's gravel pit in Moyie Springs.

Commissioners said they would have to find another time to review proposed job descriptions for the Road and Bridge Department.

Commissioner Pinkerton moved sign the letter to Oxford Inc. accepting their bid for dust abatement materials and the Independent Contractor Agreement for their services. Commissioner Kirby second. Motion passed unanimously.

The meeting with Mr. Gutshall and Mr. Arthur ended at 9:38 a.m.

Commissioners tended to administrative duties.

Commissioners reviewed claims for payment. Fund totals are as follows:

Current Expense	\$27,650.69
Road & Bridge	25,208.20

Airport	2,673.22
District Court	2,281.85
Justice Fund	23,989.81
911 Funds	2,870.77
Indigent & Charity	14,405.24
Junior College Tuition	90.06
Parks and Recreation	1,014.35
Revaluation	165.31
Solid Waste	48,454.09
Veterans Memorial	83.04
Weeds	406.78
Restorium	12,629.09
Waterways	<u>6.58</u>

TOTAL **\$161,929.08**

Trusts

Auditor's Trust	4,242.00
Drivers License Trust	8,840.50
Magistrate Trust	27,669.30
Interlock Device Fund	376.96
Motor Vehicle Trust	116,984.18
Insurance Reimbursement	17,892.00
Sheriff's Trust Fund	1,967.40
Parks & Recreation Trust Fund	1,701.31
Weed Trust	<u>3,500.00</u>

TOTAL **\$183,173.65**

GRAND TOTAL **\$345,102.73**

Citizens are invited to inspect detailed records on file in the Courthouse (individual claims & Commissioners' allowance & warrant register record 2014-2015).

Commissioner Kirby moved to approve minutes of May 26, 2015. Commissioner Pinkerton second. Motion passed unanimously.

10:00 a.m., Michael Listman and Rita Pensmith with Boundary Computer joined the meeting to discuss details pertaining to updating and maintaining the county's website. Chairman Dinning said the county runs into small issues involving updating and managing the site. Clerk Poston said if each department manages their own page, there is the ability to access other pages so it's possible the entire site may become compromised. Clerk Poston said for her page, she may need to update or remove pictures and update election information four times per year.

Commissioners asked Mr. Listman to put together a list of ideas and Clerk Poston requested that Mr. Listman provide a quote. Mr. Listman mentioned broken links he has found on the county's website and he mentioned 508 compliance. Commissioner Pinkerton said there is nothing on the site that promotes living in Boundary County.

Mr. Listman, Ms. Pensmith, and Clerk Poston left the meeting.

10:19 a.m., Commissioners continued the public hearing on Planning and Zoning Application #15-020. An application to amend portions of Planning and Zoning Ordinance 2012-1. Present were: Chairman Dan Dinning, Commissioner LeAlan Pinkerton, Commissioner Walt Kirby, Deputy Clerk Michelle Rohrwasser, Planning and Zoning Administrator John Moss, and Blue Sky Broadcasting Reporter Mike Brown. The hearing was recorded.

Commissioners and Mr. Moss began by reviewing Section 8.2. Commissioners questioned what the trigger is to obtaining a special event permit. Chairman Dinning said he had suggested doing away with the special event process and questioned what would occur by doing that. Commissioner Pinkerton said a special event is a condition. Mr. Moss said a special event permit should be oriented to just what is says, a special event that occurs once or a couple times per year, but not something that goes with the land. The difference between a special event permit and a conditional use permit is that there could be something that looks like it would require a special event permit, but then a conditional use permit is issued, which allows the activity to continue in perpetuity. Mr. Moss mentioned the proposed changes for special event permits and said they are issued and controlled by the Planning and Zoning Administrator and if he feels unable to make a decision or the matter is controversial, the Planning and Zoning Administrator can defer to Commissioners, but the application doesn't go to the Planning and Zoning Commission. That hasn't changed except for Section 7. Section 8.7, under Applicability, it states that the event is proposed to take place in a zone district may not be changed or expanded without the Planning and Zoning Administration, but in Section 8.1 the deciding body is the administrator. The Planning and Zoning Commission has nothing to do with this process. Mr. Moss said he doesn't think Commissioners should do away with this special event permit process. Chairman Dinning questioned if the definition of special event should be changed to seven calendar days or less and the event can only be a one-time event per calendar year. Mr. Moss said that is not renaming the event, but determining what it consists of. Mr. Moss said he is thinking in terms of there being several mud bogs. They have different schedules and it has been up to the applicants as to what that schedule is, but by having recurring schedules the county can re-evaluate the event at the end of its run and re-issue a permit for a new event. If the events are too strict, Mr. Moss said the county can lessen up the restrictions by having the applicant file a new application, but that cannot be done with a conditional use permit. Chairman Dinning said in essence we are issuing a conditional use permit with multiple dates and the permit runs with land.

Mr. Moss said if there is an event scheduled for the fourth weekend of every month, that is a schedule, but it's not a conditional use. The difference between a conditional use permit and a special event permit may be viewed in terms of what a conditional use permit is used for. An example of that is a request to put in a multi-family dwelling on a property and that goes with the land as that structure goes with the land. But when you have an event that you've approved currently under a conditional use permit that goes with land, it is wrong. Commissioner Pinkerton asked if something should be included in a special use permit that excludes something permanent. Is there something that can be reworded rather than a regular schedule, a permanent fixture, or use that ties to that land that we want to limit? Chairman Dinning said as it sits right now, if he wanted to have mud bogs and there was nothing in place for someone to have something similar to a Woodstock Festival, there is no control, etc. If in fact it can be done, he could make application to have four Woodstock events in any one year, and they can go as contrary to anything the county puts in place for those four times in the first year before the county has any ability to address the problem. Mr. Moss said those four times were pre-existing and he is not sure if it is reasonable. Mr. Moss said the problem with limiting an event to one time per year is that events like a mud bog are held multiple times per year and it is an event in which certain agencies and emergency

responders need to be notified and that doesn't happen with a conditional use permit. The permit is only good for one time per year. Next year if someone wants to apply for the same event, they can do it in January, February, March, etc., but the permit is only good for that year. That gives the administrator a chance to look at a need to establish terms and conditions. Mr. Moss said whenever there is a special event he can stipulate that he be notified so he can then notify other agencies and he cannot do that through any mechanisms with a conditional use permit. Chairman Dinning mentioned the applicant can apply for a special event permit each time an event is held. Mr. Moss said that is \$90 each time so it is not reasonable. Section 8 states if there is a problem, it could be addressed immediately.

Mr. Moss said the Mountain Mafia Entertainment has been very responsible in what they do, but that cannot be counted on and there is no indication of needing to be more restrictive or to issue a denial. Chairman Dinning said so we're looking to change the number of people at a special event to 500 people or more than 300 if people are camping, or alcohol. Mr. Moss said that is to recognize that people will come to an event from far away and plan to stay over. It was said the way a special event is worded now, is "or more than 300 camping, or if alcohol is sold. Chairman Dinning said if an event was held, he would have to have 300 people plus one more person camping. Mr. Moss said yes. Mr. Moss said he doesn't know if 500 people per day is valid as who is going to count and say a special event permit is needed at 501 people.

Chairman Dinning asked if a free special event would be different than a commercial event. Mr. Moss said Section 8.3., exempts schools and churches. Chairman Dinning questioned if mentioning the insertion of fees charged would be considered a commercial venture and require a conditional use permit. Mr. Moss said when he suggested that money is a red flag as it pertains to a special event, the Planning and Zoning Commission said "no way." Mr. Moss listed other agencies holding events as fund raisers.

Chairman Dinning said all mud bogs that have occurred have intended to make money so are they considered commercial events. If an event holder charges admission or entry fee, etc., should that be a trigger? The Planning and Zoning Commission said there are a lot of charitable organizations holding fundraisers so there is a peripheral matter. These are generally for profit events, according to Chairman Dinning. Mr. Moss said even if a mud bog doesn't occur more than once per year, the events last for several days. If it is a multi-day event, by definition it is commercial, but that was not accepted by the Planning and Zoning Commission, according to Mr. Moss. Mr. Moss said he doesn't like the stipulation of the number of people per day or camping. The Planning and Zoning Commission felt having alcohol clearly implies a commercial venture. Chairman Dinning said what would be easier is to take a look at defining, somehow, what a commercial venture is. If there is something that is satisfactory. Mr. Moss said changing the first sentence to a special event permit is any commercial activity and a planned group activity doesn't apply.

If the event was a commercial use as defined in the ordinance, would that be a qualifier for a special event permit or the applicant has to get one. The trigger is not people, camping or alcohol, according to Chairman Dinning. Mr. Moss said any commercial activity, is that correct. Chairman Dinning said as defined, but he does want Attorney Hull to review these matters.

Chairman Dinning said the key is that the use is to attract customers in the definition of commercial. Mr. Moss read aloud the definition of commercial. Mr. Moss said he will remove the provision for attendance, number of people, camping and alcohol. Chairman Dinning said the trigger is a special event, any planned scheduled commercial activity as defined in the definitions that takes place within a

defined area. Chairman Dinning asked about parades. Mr. Moss said he would delete the term "parades." Chairman Dinning said when we get to the point of getting comfortable with this definition Mr. Moss can write it up, have it reviewed, and send it to the Planning and Zoning Commission for further review. Commissioner Pinkerton said he agreed. Chairman Dinning said he is personally leaning for this matter to be a "per event" matter. Commissioner Pinkerton said an applicant would need to obtain a permit each time. Chairman Dinning said the reason for that is the county is almost granting a one year conditional use permit by granting an event for more than one time. Mr. Moss said economically, whoever is holding an event can recognize the cost of doing business at \$90 per application. It is clear to him and would be to the event holder. Mr. Moss said when a special event has been held, emergency medical technicians and fire departments are notified in time prior to the event. Mr. Moss said there had been a timing issue and he needed more time for emergency agencies to be notified and respond to the application if there is an issue. Chairman Dinning said even if someone applied for four events everything would be in place after having the first event. Commissioner Pinkerton said Section 8.6 refers to revocation. Chairman Dinning said we don't need to worry about revocation unless there is a seven day event and there have been issues at day three. Chairman Dinning said he's trying to think of the downside other than economic cost. Mr. Moss said he doesn't see a downside. Mr. Moss said he sends out a staff notice of events and he can include Commissioners in that notice.

Chairman Dinning questioned why have a provision for seven days when most events last three days or less? Chairman Dinning said when it says "seven days or less," would a court already look at that and question why the county is looking at less than that. Chairman Dinning said if there is abuse of a county ordinance, Commissioners can fix it at that time. Do Commissioners have latitude in the current ordinance to say, "no, the applicant cannot have an event lasting seven days per week, 52 weeks per year?" Chairman Dinning questioned if they could include the verbiage today that says "up to seven days." Mr. Moss said we can replace with verbiage saying "lasting several days." Chairman Dinning suggested leaving "seven days" alone for now. Chairman Dinning asked if there is any need to limit an event to four times per year. Mr. Moss said he deleted that provision. Commissioner Pinkerton said it should be kept at a calendar year, but take out the mention of "four times."

Those present reviewed Section 8.5., and it was said the term "recurring" can be removed from this section. Chairman Dinning said the first sentence of this section should remain, "for one time event," but the last section can come out. Chairman Dinning said Section 8.6 should be removed since this section calls it a recurring special event review. Mr. Moss said he will take "recurring" out and just call it a special event review. Chairman Dinning said if it is a one time event, and if during the event the Commissioners run into something horrendous pertaining to the event, they can have a special emergency meeting to revoke the permit. Mr. Moss said yes, that is the intent.

The term "recurring event" will be taken out of Section 8.8 entirely, per Mr. Moss. Chairman Dinning agreed. Chairman Dinning said in the section for penalties for a violation he questions if someone intentionally doesn't abide by the terms of the event permit, do Commissioners have the legal ability to get an injunction to stop the event. Mr. Moss said Section 4.1.1.5 pertains to the failure to comply with a special event permit. That is a civil public defense matter and does not constitute a crime.

Section 8.3 pertaining to exemptions was reviewed. Chairman Dinning said it says activities attracting fewer than 500 people. Mr. Moss said he will remove the phrase, "fewer than 500 people." Chairman Dinning said that business has gone through whatever process to be recognized as a commercial enterprise. Chairman Dinning questioned what happens if a carnival is allowed at Mt. Hall School. Mr.

Moss said it would be exempt from requiring a special event permit. A special event permit will not be required for activities involving churches, schools or school property, funerals, or family events or reunions. Mr. Moss reiterated that he is taking out the mention of 500 people in these changes as well as events associated with conducting business. Section 8.5 has been changed to a one-time event as per the definition. Mr. Moss said that was correct. Section 8.5 has had "run with the land" removed and Mr. Moss said yes. Mr. Moss will also delete "all occurs within the same year." Section 8.5 will still contain the first sentence pertaining to the duration as specified by the application. Those present reviewed what terminology will be deleted. Mr. Moss said we've already said a special event will be a one-time event.

Mr. Moss said the whole point is that changes cannot be made unless approved by the planning and zoning administrator. Chairman Dinning said to take out "change or expanded without..." Mr. Moss said it already says action needs to be done by the zoning administrator. Chairman Dinning said in essence Mr. Moss will be amending a permit. Mr. Moss said yes.

Commissioners and Mr. Moss continued to review what changes will be made. No changes for Section 8.9. As it pertains to Section 8.10.1, Chairman Dinning questioned if "45 days" is going to be a consistent number throughout. It was said this section states the application needs to be submitted 45 days before the event is to take place. The change to Section 8.10.1.1 is the inclusion of ambulance service and associated fire department. Another change in the section is from 14 consecutive days to seven consecutive days for a response from the Planning and Zoning Administrator. Section 8.11.5 will be removed because there are no public hearings. Mr. Moss said there would be no public hearings unless he turns over the decision to Commissioners and he schedules that public hearing.

Mr. Moss and Commissioners discussed when to have a public hearing for this information. Mr. Moss said at the point where there is input from anyone, he can say Commissioners need to look at this. Chairman Dinning said if he had 80 acres that he could hold a mud bog on, how would neighbors be notified of the event? Mr. Moss said the neighbors are not notified as there are no provisions for notification now. Mr. Moss said the only way to provide notice is Facebook or the newspaper. Chairman Dinning said he would like to add a provision for notification in the new changes. If he were to have a three day event, he can apply for it and have the event and his adjoining neighbors would have no opportunity to provide input. That doesn't mean there has to be a public hearing, but to at least provide notification. Chairman Dinning said he doesn't like word of mouth to notify people. Mr. Moss said there is no good mechanism for notification. Chairman Dinning said there are other processes for notification for other types of applications. Neighbors of the property where the event is to be held will automatically feel disenfranchised because they were not notified. If no concerns are received, Planning and Zoning is free to permit the event. Mr. Moss said in Section 8.10.1.1., it says the administrator will provide a copy of the application to the Road and Bridge Department so there would be another chapter that says the administrator would notify neighboring property owners within a certain footage from the event via a letter indicating details of the event. Chairman Dinning said he is just talking through and trying to find what is fair. Commissioners and Mr. Moss had continued discussion back and forth regarding notification to adjoining property owners. Chairman Dinning said he is just thinking it through because notification is provided for everything else.

Mr. Moss said he feels people need to feel they are respected and he could reply to those interested in what the county's decision of a special event permit will be.

Section 8.11.5 will be removed by Mr. Moss because the public hearing process is being removed. Chairman Dinning said Section 8.13 contains a simple statement saying the Planning and Zoning Administrator is responsible for handling complaints and the rest of the section has to do with numbering the sections all the way through.

Chairman Dinning asked Mr. Moss to look at the suggested changes and put them in a format Commissioners can reread and review again.

Commissioner Pinkerton moved to continue the public hearing for Planning and Zoning Application #15-020 to Monday, June 15, 2015 at 10:45 a.m. Commissioner Kirby second. Motion passed unanimously.

11:37 a.m., the public hearing ended.

Commissioner Pinkerton moved to approve the Certificate of Residency forms for: I. McConnaughey, D. Robinson, E. Temple, J. Alexander, A. Lane, S. Barradale, and H. Leach. Commissioner Kirby second. Motion passed unanimously.

Commissioner Kirby left the meeting to conduct the quarterly inspection of the Boundary County Sheriff's Office jail facilities.

11:40 a.m., There being no further business, the meeting recessed until tomorrow at 9:00 a.m.

*****Tuesday, June 9, 2015, at 9:00 a.m.,** Commissioners met in regular session with Chairman Dan Dinning, Commissioner LeAlan Pinkerton, Commissioner Walt Kirby, and Deputy Clerk Michelle Rohrwasser.

9:00 a.m., County Civil Attorney Tevis Hull contacted Commissioners via telephone.

Commissioner Kirby moved to go into executive session under Idaho Code 6-2345(1)f, to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated regarding E.C. Enterprises. Commissioner Pinkerton second. Commissioners voted as follows: Chairman Dinning "aye", Commissioner Pinkerton "aye", and Commissioner Kirby "aye". Motion passed unanimously. 9:10 a.m., Commissioner Kirby moved to go out of executive session. Commissioner Pinkerton second. Motion passed unanimously.

Commissioner Kirby moved to authorize the signature of the Purchase and Sale Agreement regarding the E.C. Enterprises transaction. Commissioner Pinkerton second. Motion passed unanimously.

There being no further business, the meeting adjourned at 9:14 a.m.

DAN R. DINNING, Chairman

ATTEST:

June 8 & 9, 2015

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GLEND A POSTON, Clerk
By: Michelle Rohrwasser, Deputy Clerk