

**IN THE OFFICE OF THE VALLEY COUNTY BOARD OF COMMISSIONERS
CASCADE, IDAHO
March 12, 2012**

**PRESENT: GORDON L. CRUICKSHANK (CHAIRMAN)
GERALD "JERRY" WINKLE (COMMISSIONER)
RAY MOORE, (COMMISSIONER)
ARCHIE BANBURY, CLERK**

Meeting called to order by Chairman Cruickshank at 9:00 a.m. with Clerk Banbury taking minutes.

Commissioner Moore moved to add discussion of Johnson Creek Road opening at 3:00 p.m. and accept the proposed agenda as so amended. Second by Commissioner Cruickshank and carried.

Claims were discussed and claim for fuel to Building Dept. was noted and should have been charged to Buildings and Grounds. Commissioner Moore moved to approve claims in the amount of \$168,682.19 and Board Order Claims of \$11,913.68. Second by Commissioner Winkle and carried.

Junior College certifications were presented and approved for Lindsey R Engleka, Courtney Keith, Nina Leis, Jarrett Lambirth and Aaron Cook on motion by Commissioner Moore and second by Commissioner Winkle. Motion carried.

Douglas Miller reported there are three juveniles in detention His jail inspection has been scheduled for the detention center on March 15th at approximately 11:00 a.m. They will be reviewing some case files.

In March there is a District 4 meeting concerning a look at progress and implementation of the substance abuse program on March 22, 2012 at 9:00 a.m. Commissioners are invited.

He will be meeting with the Forest Service on April 4, 2012 to discuss trail crews. He will be hiring a supervisor. Doug will be down one adult probationer for a medical leave of absence the next 8 weeks.

Vim Braak mentioned that the 4-H weigh-in went well. At some point in the future the scales at the Fair Grounds will need replaced. They were purchased many years ago and the accuracy of the scales are questioned. This year the 4-H livestock was weighed at the Davis Ranch as their scales are certified. Economic Development group will meet on March 21 at 1:00 p.m. to 5:30 at the Shore Lodge for teams to present reports.

Meadows Valley Program of Economic Development is doing well with City and County officials (from Adams County) represented.

Tami Bishop Rhodes reported concerning Human Resource matters. She presented a book, "Lifeprints" regarding personnel issues which Katie Durfee will have available for managers.

She has two jobs open, and the next supervisor training will be March 27th. Travel Policy has been e-mailed which include changes as suggested. She has added emergency travel provisions and revisited per diem and out of state travel.

David Crawford reported on I. T. matters. He is now 2 hours into his new job and looks forward to continued success. He will work with the HR Department on filling the IT desk position that is now open.

Cynda Herrick reported on replacing the south bridge which will have a new shape, and this presents problems with flood plain compliance as to boundaries and its location within the City Limits.

She mentioned that Glenn Loomis is interested in giving Lee Way to Valley County. This will be part of the Road Department presentation on April 9, 2012. Both Planning and Zoning and the Road Department have an interest in this matter. Chairman suggests discussion of this matter during the Road Department's report.

She suggested there may be a problem with a business in Lake Fork which she needs to get cleaned up by today. She will be discussing it with the Prosecutor.

Rick Ridenour reported on snow grooming. The Deer Creek Avalanche area has been reviewed for grooming by avalanche experts and the Sheriff's Office and was approved for grooming. Warmer conditions make this a day-by-day decision. The season's end is approaching, although the northern area will continue longer than the south.

As to Weeds, NPDS permit is still in progress. The five year permit will be including Mosquitos.

Milfoil will not have any grant funding from the Department of Agriculture this year. However they will extend the diving operations against milfoil by paying the divers wages directly as an extension of our contract. He noted his planned absences on March 14 and March 23rd.

June Fullmer had nothing to report, asked for questions. Assessors are staying on top of proposed legislation.

Clerk Banbury reported on the possibility of the Chief Deputy Clerk travelling to Nashville, Tennessee as may be necessary concerning PRIMA, the Risk Manager's organization. The Chief Deputy created a training program for PRIMA that is being implemented by the program. He also said the new employee for the Clerk's office will start tomorrow.

Sheriff Bolen attended the Western Sheriff Association meeting and reported discussing the Sheriff's Association's concerns for PREA, the prison rape prevention initiative. Deputizing of the Law Enforcement Officers of the Forest Service was also discussed. Also, the USFS Travel Plan development was discussed.

Becky Hinson reported on behalf of Glenna Young and presented Tax Cancellations for approval, #11/12-02, 03, 04 and 05 which total \$169.19. Three of them were for tax bills of less than \$1. One is for \$149 and the improvement has been removed and the owner cannot be found. Commissioner Moore moved, and Commissioner Winkle seconded and carried to approve the tax cancellations noted above.

Becky continued with the 10:00 agenda item for properties not sold via tax deed. Her question is: Since the property has been deeded to the County, does any person or entity want to purchase it from the County?

Commissioner Moore moved to authorize the Chairman to sign a letter offering the parcels mentioned above for sale to the adjacent property owners. Second by Commissioner Winkle and carried.

Commissioner Moore moved to approve the meeting minutes of February 27th 2012, and March 5th as amended. Second by Commissioner Winkle and carried.

Future meetings of the Board were discussed for April, May and June. The Commissioners cancelled meeting of April 30th, and will meet on April 2nd, 9th, 16th and 23rd. For May, they will meet on the 7th, 14th, 21st and 29th, May 28th being Memorial Day. In June, they will meet on June 4th, 11th, 18th and 25th. Chairman Cruickshank will be absent on June 4th.

Closed session for Indigent and Charity.

The following actions were taken:

12-RN063 Request for Assistance Denied
12-MW053 Request for Assistance Denied
11-MT065 Final Denial for Assistance
11-BR051 Hearing for Assistance Continued until April 16, 2012

Reconvened in regular session at 11:00 a.m.

Commissioner Moore moved to table the indigent hearing until April 16th at 10:30 a.m. Second by Commissioner Winkle and carried.

Scott Davenport reported on the Valley Energy Committee. He provided a letter from about eight years ago. He also cited a current news article on energy costs/prices.

The Committee has set up a formal process. They will meet the first Wednesday of each month at 6:30 p.m. at the Brundage office in Donnelly. They have a mission statement, objectives and are expecting to have experts to participate in discussions as to alternative energy sources. Scotty would like to see if Roy Mink will participate with the group. He asked: Are the Commissioners interested in a working session with him? He will be here on the 21st of March. Can the Board attend an informational meeting with him? Location to be determined. It will probably be up north.

Commissioner Moore moved to enter in to Executive Session, as per IC 67-2345(1) (a). Second by Commissioner Winkle, and carried by Roll Call Vote: Commissioner Moore, "aye", Commissioner Winkle, "aye" Chairman Cruickshank, "aye".

Convene executive session at 11:11 a.m.

Resume regular session at 11:25 a.m.

This executive session will be tabled until 2:55 p.m. on motion of Commissioner Moore, second by Commissioner Winkle and carried.

Chairman Cruickshank will ask Tami Bishop Rhodes to answer remotely on HR matters until a replacement is found. Chairman Cruickshank will prepare an e-mail to that effect.

Avalanche danger at Deadwood was discussed. A network of snowmobile trails lead to Deadwood from Lowman/Stanley and snowmobilers want to continue on up the slope and over Deadwood Summit. We need to pay close attention to the daily avalanche recommendation. If it is marginal, don't go. A protocol should be set and followed. Who makes the call on the subject of go/don't go is simply the Sheriff's representative or other expert making a recommendation. If the decision is a no go, the operator can't go. If it is "O. K.", the driver may proceed, but may also decline if he/she feels it is unsafe. Such protocol should be included in the Annual Operating Plan with the Forest Service. Ronn Julian stated he would assist in the incorporation of that protocol into the plan.

Adjourn for lunch at 12:00 noon.

Reconvene at 1:00 p.m.

Chairman Cruickshank explained that they will be deliberating on the Nisula Gravel Pit. No cheering, jeering or demonstrating. If so, we can clear the room.

He entertained a motion to take it off the table. Commissioner Moore moved to take the Nisula Gravel Pit Cup 11-07 from the table and proceed. Second by Commissioner Winkle and carried.

He called upon Commissioner Winkle who had previously stated that he was ready to make a decision, to begin. Commissioner Winkle believes that he had read all letters and e-mails which he said were more than 120. He also reviewed the LUDO and the findings of facts. He reflects on his 10 years on the Planning and Zoning Board and he believes in the validity of the compatibility rating. He thinks Mr. Milleman did a terrific job in his comparative compatibility rating as previously presented. He read a paragraph from one letter, describing the natural beauty and wildlife of the area. His decision was quite simple and he agrees with the appeal (appellants) of CUP 11-07.

Commissioner Moore provided an e-mail he received from an Alexander Bernstein over the weekend and wants it entered into the record. Cynda Herrick pointed that this e-mail was received after the public hearing and should not be considered. Both parties asked them to follow the LUDO (Land Use and Development Ordinance). They did this for good reason as the Commissioners are bound to follow it.

First, as to compatibility and how the LUDO determines the use of a property. North and South of the property is agricultural and industrial land respectively. West is largely timber and therefore according to the LUDO agricultural. Of the 144 acres there is a single house on one acre. There is no record of a platted subdivision. The property to the east is not residential; there had been a platted subdivision, but it expired without construction. It was later approved for industrial development, a gravel pit which has not expired or been changed. The CUP approving that gravel pit specifically states the property will no longer be grazing and will be a gravel pit. Property to the southeast is arguably a residential subdivision. To the southwest, is similar to the property to the west and is agricultural. This agrees with the findings of the Planning & Zoning Commission.

Noise levels are contested inconclusively by both parties. The LUDO does not call for speculation as to the noise levels. It must be tested when it is operating. There is no other way to know. If it is approved, a condition of approval should be to measure the sound and it must be kept below 60db or operations shall cease. Provide the ability to have the applicant pay for noise monitoring if approved.

As to dust, contrary to the appellant's arguments the applicant has stated that they will, as a part of the application, monitor the dust and mitigate. They must do so stay in compliance with the LUDO.

Set back of 1000 feet is applicable to the property to the southeast. LUDO allows for mitigation to the satisfaction of the P&Z Commissioners Is it mitigated? Planning and Zoning thought it would be so. They set hours and days, reviewed noise, requirements, dust control measures, the placement of the crusher, no crushing during patio season, etc.

As to Road frontage, Planning and Zoning agreed that the use of the existing Valley County gravel pit for frontage exceeds the 75 foot requirement. As to 70 feet and 75 feet, and although it should be spelled out, there should be a condition of approval that if the access changes, it must remain at 75 feet or greater.

Given these facts, he would not grant the appeal.

Commissioner Cruickshank knows the property pretty well. He appreciates the efforts of the P&Z Commissioners. He discussed the need for gravel and the location of it. He pointed out Mr. Hunt opposed the pit, however he purchased an existing gravel source property to build his residence on and now uses ponds resulting from gravel removal on his own property for his enjoyment. Discussed the noise levels, the disparity, we have to test it. If it fails, it must be mitigated. This is a soft rock pit similar to Valley County's and should be relatively quiet from past experience of a crusher running in the county property. He talks about noise and suggests the most egregious is the back-up alarms on heavy equipment. That cannot be mitigated. Maybe they can be toned down.

Did anyone consider purchasing a conservation easement or the development rights from the Nisula's?

Commissioner Cruickshank agreed with the change in the use of the White's property north of Elkhorn 1 as they have applied for a C.U.P. to create gravel extraction on their property.

Commissioner Cruickshank stated that the applicant would need to control their sediment from their operations on site as Valley County would not be accepting any runoff that needed sediment control.

Access is allowed through Valley County's existing pit. This he prefers as it allows for better safety of the traffic on East Lake Fork Road for both the trucks entering the road and the vehicles approaching. This also moves the trucks away from the west boundary of the Elkhorn Subdivision. In the approved C.U.P for the Elkhorn Subdivision it is required to note to any prospective purchaser the fact of the existence of an operating gravel pit is in the area to the west.

Dust must be controlled, by both State and Federal law, and we can get tougher than that. He believes the applicant can control the dust and must do so per the LUDO.

The crusher can operate 36 days a year, and that does not include the "patio season" and to some extent that mitigates the concerns of having the noise of a crusher during the summer months.

There would be a zero setback for the applicant, however Valley County still must maintain the 100 foot setback on their side of the site until or (if) the conditional use permit Valley County is operating under is amended. If we had zoned Valley County, this may have been the place zoned for gravel pits in this area of Valley County. Chairman Cruickshank went on to comment about many subdivisions in the area had gravel sources created on site to build the roadways. Carefree Subdivision had such a site as did Eld Country. Others are around and he just named a few. (Comments about locations were further heard.)

Chairman Cruickshank asked for the Commissioners to consider removal of the pond proposed on the southeast portion of the project. The existing swale provides a natural barrier and then this would help mitigate the noise issue concerning the Elkhorn Subdivision as it would increase the distance from the operations.

Chairman Cruickshank moved to deny the appeal of C.U.P. 11-07 Nisula Gravel Pit. Motion died for lack of a second.

Discussion ensued concerning proposed conditions of approval and potential mitigation.

Can we mitigate the noise? Can we do so by providing wider setbacks? If no activity is allowed near the swale and require trees planted there, and/or widen the buffer. Options, does anyone want to buy the development rights to the property. Set a time line?

What will work? The property owner has a right to do something with it and would want to negotiate some changes. Maybe he can do some of the things, but not all of them.

Commissioner Moore questioned what that might be. The answer was to not do all of the excavation, to widen the buffer zone. Page 2 of the site plan, drainage swale on the east side of the property, goes across the Valley County property, into pond number four.

There was some confusion over maps on what was the most current.

By eliminating the 4th pond, it would eliminate all the activity in the southeast corner of the applicant's property, the Chairman's summary of his recommendation. This would further mitigate dust and noise. Commissioner Winkle has no further comments on the proposal to eliminate the 4th pond to the favor of further noise and dust mitigation.

Discussion continued about increasing setbacks. Concern is more about the southeast corner than the northeast corner. Removal of the 4th pond would mitigate concerns about the southeast corner. Commissioner Moore commented that if the applicant can meet the noise limitations then there is no need to remove the pond from the project.

A discussion was held on increasing the planting of trees in the southeast corner to include along the southern boundary a row of trees extending to the drainage swale or 150 feet whichever was the lesser amount. The tree plantings would mirror the design of the trees proposed along the east boundary.

A requirement to insure all the landscaping was performed in the first phase of the project was also discussed.

Commissioner Moore moved to deny the appeal and suggested the following additional conditions of approval:

(First) The 60db sound limit must be met at the East, West and North property boundaries as well as the Southeast property corner. Sound measurements shall be performed during the work-day while the crusher is operating by the applicant.

(Second) Sound measurements shall be taken during each crushing operation. Measurements are to be performed within 48 hours of commencement of said operation and shall be taken along East, West and North property boundaries as well as the Southeast property corners. If noise is above the 60db level the operation will be shut down until compliance is obtained.

(Fourth) Hours of operation are to be 7 a.m. to 7p.m. Monday through Friday, all Federal holidays excluded.

(Fifth) Dust shall be controlled to the standards of the Land Use and Development Ordinance, as well as the standard of the EPA, DEQ and any other applicable state or federal regulation by watering or the use of palliatives.

(Sixth) All sediment will be controlled on the applicants' site and the natural flow of the water shall be maintained.

(Seventh) Additional trees shall be planted in the southeast corner of the property. They shall start at the west edge of the proposed road, and continue along the southern property line for a distance of 150 or to the drainage, whichever ever less. The specifications for the trees and the width of the trees shall be the same as it is for the trees on the Eastern Property boundary.

(Eighth) The requirement for 10% of the net site to be in landscaping shall be completed during the first phase of the project.

These are a continuation of approval of those already imposed by Planning and Zoning: Numbers 19, 20, 21 and 22.

Commissioner Winkle asked why nothing was brought up about the crushers in the pit.

Commissioner Moore noted that the sound level would be measured and must comply with the standards regardless of the location of the crusher, in the pit or at the surface.

Chairman Cruickshank asked if there was a number three additional condition? Commissioner Moore responded "No I guess I missed a number three and went to number four.

Chairman Cruickshank seconded the motion and asked for discussion.

Commissioner Winkle inquired of Commissioner Moore if he had noted or mentioned a conflict of interest with respect to Attorney Victor Villegas, or had declared any ex parte contacts with him? Commissioner Moore replied "No" and commented that he dealt with Mr. Villegas in the past, as well as Attorney Millemann (representing those appealing the decision) and his relationship was well known, having been very well publicized in the local newspaper. "It's no secret." He saw no conflict created by those previous dealings in regards to the matter now before the board.

Chairman Cruickshank restated the motion to deny the appeal and add the above listed conditions of approval, now numbered one through seven, inclusive and called for the vote. The motion carried, with Commissioner Moore and Chairman Cruickshank voting "Aye", and Commissioner Winkle voting "Nay."

Chairman Cruickshank thanked the public for attending.

A short recess was called.

Commissioner Moore moved to take the executive session begun at 11:15 from the table. Second by Commissioner Winkle and carried.

Continuation of executive session at 3:02 p.m.

Reconvene regular session at 3:16 p.m. Decision reached to ask the Road Superintendent to provide a letter concerning the employee and how the employee was reminded of the Employee's Manual regarding auto accidents.

Mr. Jim Egnew appeared with Jerry Robinson to discuss a planned opening of Johnson Creek Road to permit fuel deliveries to Stibnite. The work will be done by Midas Gold, and will involve removal of 7-8 feet of snow from the road surface with crawler tractors and a motor grader. Discussion was held on who would be performing the snow removal on the Warm Lake Summit area to Warm Lake. It was also discussed to let the road dry out some before allowing trucks on the road.

Commissioner Moore moved to take the Indigent session tabled from earlier from the table. Seconded by Commissioner Winkle and carried.

Continuation of Indigent at 3:27 p.m.

Out of the closed session at 3:31 p.m.

The executive session at 3:15 per the agenda was cancelled.

Adjourned at 3:32 p.m.

Gordon L. Cruickshank, Chairman

Attest:

Archie N. Banbury, Clerk

AB/tme 4-09-12