



**Madison County
Commissioner Meeting Minutes
July 22, 2019**

Attendees:

Jon Weber, Commissioner (Chairman)
Todd Smith, Commissioner
Brent Mendenhall, Commissioner
Troy Evans, Deputy Prosecuting Attorney
Kim Muir, County Clerk

Pledge of Allegiance

Invocation: Commissioner Mendenhall

ACTION ITEMS

Public Comment:

Calendar Discussion: August meetings have been changed to August 7, 2019 and August 29, 2019
Schedule for remainder of 2019: September 9 and 30, October 15 and 28, November 12 and 25 and
December 2 and 16, 2019.

IAC Annual Conference September 23 – 25, 2019

Discussion and Decision Items:

Planning and Zoning Commission members: After review and discussion, Commissioner Smith made a motion to approve the appointment of Clint Hansen to the Planning and Zoning Commission. Commissioner Mendenhall seconded and voting was unanimous. The motion passed. This replaces Rick Roberson on the Commission.

Medical Insurance decision, this matter will be discussed August 7, 2019 with Rudey Ballard.

Contracts/Documents:

BHS Letter for 2019 grant. This matter was the same as the 2019 Homeland Security Grant below.

After review and discussion, Commissioner Smith made a motion to approve the Resolution #436 Odd Lot property to be transferred to Hemming Management LLC. Commissioner Mendenhall seconded and voting was unanimous. The motion passed. This will be placed in the paper for public hearing.

The assessed value of the odd lot per the Assessor's office is \$500. Hemming's will purchase for \$500.

After review and discussion, Commissioner Smith made a motion to approve the 2019 Homeland Security Grant for a specialized vehicle. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

After review and discussion, Commissioner Mendenhall made a motion to approve the Employee Years of Service Certificates. Commissioner Weber seconded and voting was unanimous. The motion passed.

After review and discussion, Commissioner Mendenhall made a motion to approve the Delta Dental Contract Amendment. Commissioner Smith seconded and voting was unanimous. The motion passed.

Routine Matters:

After review and discussion, Commissioner Smith made a motion to approve the claims presented by the Clerk in the amount of \$858,541.25 with \$27,547.32 coming from the general fund. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

After review and discussion, Commissioner Mendenhall made a motion to sign and approve the minutes of June 24, 2019 and July 8, 2019. Commissioner Smith seconded and voting was unanimous. The motion passed.

After review and discussion, Commissioner Smith made a motion to sign and approve the Certificate of Residency for: Jade Dixon, Teresa Batson, Skyler Walker. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

Personnel Actions:

After review and discussion, Commissioner Smith made a motion to approve the Personnel Actions. Commissioner Weber seconded and voting was unanimous. The motion passed.

Executive Session: Idaho Code § 74-206(1)(a) hiring a staff member (b) employee matters and (d) exempt records, Ann Marie Sorensen, Indigent Clerk:

Commissioner Weber made a motion to go into Executive Session at 9:15 a.m. Commissioner Mendenhall seconded the motion. A roll call vote was taken as follows: Commissioner Smith-yes, Commissioner Mendenhall - yes. The motion passed.

Commissioner Weber returned the County Commissioner meeting to open session at 10:00 a.m.

**Public Hearing: To adopt new fee schedule for the Ambulance District
Review and sign Ordinance #425**

Commissioner Weber opened the public hearing at 10:00 a.m. Commissioner Weber–yes, Commissioner Smith–yes, Commissioner Mendenhall – yes. Troyce Miskin from the ambulance district presented and explained the changes in the fee structure. A behavioral health category was added, some service prices were reduced and others increased slightly. The Ordinance also includes a response fee of \$95, simply to reflect the cost of doing business, as well as adding an air medical service fee to facilitate those providing air transport service for patients they assist, but do not transport.

There was no one present to speak for, against or in favor.

Commissioner Weber closed the public hearing at 10:07 a.m.

After review and discussion, Commissioner Mendenhall made a motion to adopt Ordinance #425 Ambulance Fee schedule. Commissioner Smith seconded and voting was unanimous. The motion passed.

Findings of Fact: Silver Tip Business Park Development

Bradley stated this is new territory, as the county hasn't had a lot of business parks. Silver Tip will be following the commercial development standard guidelines. The Business Park will be built on the Lone Pine nursery location. The Findings of Fact was presented. Easements are included and they plan to build according to county standards, which include additional roadways. The frontage road was discussed. Each lot will have a well. There is temporary access to the back lots on the southeast side. The organization would like to begin breaking ground soon and are working with Road and Bridge for the roads on the west and south.

After review and discussion, Commissioner Smith made a motion to approve the Findings of Fact for Silver Tip Business Park Development. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

The Commissioners also agreed to receive and review the final plat where there are very few additional items requested from P&Z. Changes will be made and the Comm. will review the final plat at the next meeting.

Kim Muir: Budget discussion and decision

Budgets were discussed and a few changes were made to the budget. This matter will be further discussed at the next meeting.

Public Hearing Regarding Comprehensive Plan Map Change for Edstrom Construction.

This hearing was recorded and the transcript of this hearing will be attached to the Commissioner's Findings of Fact and Conclusions of Law. This is a summary for these minutes only.

Commissioner Weber made a motion to open the public hearing at 7:00 p.m. Commissioner Weber – yes, Commissioner Smith – yes, Commissioner Mendenhall – yes. Commissioner Weber asks Clerk, Kim Muir if the Public Hearing has been properly published and noticed. Clerk Kim Muir states proper notice was given to the newspaper and radios station and notice was posted of the hearing. Letters were sent out the neighbors, as required by law. No conflicts were declared.

Explanation of the proposed Comprehensive plan map change:

Weston Davis, representing Edstrom Construction states there are two competing growth interests in the Archer area; population and growth of the industry. Edstrom's began mining activities on Parcel 1 in 1981, before there were homes on neighboring property. Parcel 1 is a grandfathered preexisting use pit and was there before the gravel overlay was required. He commented this change will be putting like things together, with the Walters gravel pit, surrounding bark plant, access to Highway 20 and thinks that clustering would make sense. He went through the 17 points listed in Idaho Code § 67-6508 which outlines the purposes to deny an application to amend the county comprehensive plan land use map. He states that Madison County is growing and there is a need for gravel and this change makes sense from a natural resources standpoint. He does not feel there will be any piece of property that will be negatively affected by the expansion and asks what is best for the community. Edstrom's want to be good neighbors and have focused on improving air quality and noise.

Those speaking in favor:

Brian Edstrom 2868 West 3200 South, Rexburg,

At the last meeting Edstrom's received a friendly rebuke. They have reflected on the course they have taken over the last 6 months and have looked at other options and want to try to find a way to make this work. They looked for other properties as asked by the group and it isn't in their financial interest. When the crusher was in the northwest corner of the property, they didn't receive complaints. When the crusher was moved to save money, it had to be hard wired and they used the closest power source. They put their stock pile closer to homes hoping to create a noise buffer, but it created more dust. They are trying to react to the complaints and move the crusher and stock pile. Mining is done in the winter and their intent is to reclaim parcel 1 with the reclamation plan and to keep stock piles on parcel 1 and feel this will eliminate some of the dust and noise issues. They would continue with their best efforts with water trucks. They will not stock pile the gravel where it has been.

John Edstrom did not wish to speak, but agrees with his brother.

Angela Morgan 4531 South 2000 West, Rexburg

Angela lives northeast from the pit and gets to watch what is going on. She also works for Edstrom's and knows them to be good people. She feels if the gravel overlay is in place it will protect the public.

Joe Stanislaw agreed with what had been said and didn't wish to speak further.

There was no one wishing to speak in the neutral portion.

Those speaking against:

Commissioner Weber comments he received information from the HOPE group and there are six individuals wanting to speak. It was reported Mr. Blaylock was one of them and he is currently in the hospital. This will leave five to speak against the issue.

Kirsten Ruebush, 1893 W 5350 South.

Kirsten quoted Idaho Code 65-6508 regarding hearing factors. She states that there was no bond or an appropriate bond or a reclamation plan on the Edstrom property. She and her husband went to the Idaho Department of Land asking them to do an inspection of the Edstrom's pit which they did on May 7 or 8. The DOL report states Idaho Department of Land considers this an expansion and a mining operation. The expansion is taking place on the new parcel, but Edstrom's do not have the proper bond

in place and they are in violation of the Idaho mining law. She quoted the comprehensive plan and states that our county is at risk and we need to be aware of state mining laws. Kirsten states Edstrom's are not in compliance with the gravel pit overlay because it is part of their mining operation. You can't make proposals outside of the law. Her suggestion is to stop and deny the proposal and let Edstrom's come in compliance before we proceed.

Commissioner Weber asked why the Idaho Department of Lands is not enforcing this law.

Kirsten Ruebush: They are being quite lenient.

Commissioner Smith asks if there is anything that prohibits a zone change if they are not in compliance.

Kirsten Ruebush: They have the right to apply. We can't stop them, but we can deny until they are in compliance. Madison County resolution states we need to notify Edstrom's they are not in compliance and it is the Commissioners responsibility. They have the right to apply.

Commissioner Mendenhall: Do we have a written report from the Idaho Dept. of Lands? It was given to him.

Shane Ruebush – Idaho Dept. of Lands states Parcel 2 is part of the mining operation. For this to exist as part of the mining operation there is a need for a CUP to have additional acreage beyond the original Lot 1, 40 acres. The use shall not be increased or expanded except by a CUP. When a company is bonded for a certain number of acres that is what they are grandfathered for. Existing bond needs to conform. He states that the use shall not be increased or expanded even on the existing property except by conditional use permit. His second point, the conditional use permit requirements in the actual gravel pit overlay require that any expansion of an existing use that does require the rezoning of a parcel or purchasing additional real property shall require compliance with this section. He states there are violations. Dept. of Lands needs to enforce, but Commissioners have a responsibility to make sure violations are addressed. If a party is offending, let them put things right and come back openly before the public, before further action is taken.

Paul Roberts, 4436 S. Cameron Lane, Rexburg.

Paul is making an attempt to summarize for Brian Blaylock as he is in the hospital. In terms of additional regulations, water rights are a concern. Idaho Dept. of Water Resources states that water rights are required if a gravel pit naturally fills with water and is not filled back in within a reasonable time or if the reclamation plan does not include plans to refill it, should be done before we move forward.

Air quality was also discussed. The last documented inspection by DEQ was in 2017 and the crusher was not in operation at that time. No air quality has been assessed while in production and no comp plan change should be approved until addressed. The sewer water protection plan was also addressed. There is no proof of water quality inspection (SWIFT plan). This should show in compliance before the comp plan should be addressed. The flood plain was also discussed. The map from 2008 was discussed. Bradley states we are in the process of updating the maps.

No one believes Edstrom's are bad people. This is an honest disagreement. It would feel a lot better when county and state ordinances and laws are being followed. Best course of action is to sit tight until they are in compliance.

Lexi Gordon, 2201 W. Cameron Lane, Rexburg.

Considering all she has asked others what danger her children are in. Silica and crystal dust can be dangerous to everyone. How far should residents be from a gravel pit? There is no way to see crystal or silica dust. The invisible dust is more dangerous than dust we can see. OSHA, DEQ – DEQ couldn't say her family would be safe. You will have thick layers of dust on the car. If you can see the dust, keep them inside. He was trying to be positive. There are very windy days in this area. She presented pictures taken by Brian Blalock. Her teenagers could not be outside because the dust chokes them; her younger child went out to play and came in because the dust was hurting his eyes. She explained a picture of the dust on her piano the day after she dusted. She is concerned for her family and her neighbors. She would like to see a silica monitor installed in all of her neighbors yards. Two other pictures showing how close the pile is to her living area were viewed and discussed.

Commissioner Mendenhall asks if the picture of the decibel monitor was taken when the crusher was running at 10:30 at night. Edstrom's state they don't run anything at 10:30 at night. Commissioner Smith and Lexi Gordon couldn't find anything stating what a safe distance from silica dust would be. She states "this comes from wanting her children to be safe".

Michal Williams, 4648 Cedar Butte Circle, Rexburg.

When he and his wife moved back to the area they talked with the real estate agent about the area. He explained the crushing and mining area. It is a concern to him that there is an emphasis for those hoping to change the property, rather than keep it as it. He states this is the most densely populated area outside of the City of Rexburg. Changing the comprehensive plan when not right or legal for money is a concern. He asks if business interest is more important than 189 families that live in that area and feels this is a very real risk to the living and breathing neighbors. Full time residents are exposed to much more than the workers and the residents don't wear masks. To be exposed daily for 10 years is quite dangerous. His father passed away of COPD and he believes it was his exposure to the dust from his career in mining and running a crusher. If this is authorized it will take away an enjoyable way of living for the neighbors and asks if business should have more say. He quoted eminent domain laws.

Jed Bigelow, 428 Park Ave, Idaho Falls, HOPE legal counsel

He referred to the hearing factors and presented a timeline for the gravel pit. He discussed property rights and that Edstrom's bought the property in 2015 with the hope of expanding, but without a definite right at that time and from the comprehensive plan he gathers that county policy has been to try to keep industrial gravel pit zones and residential areas separate industrial all in one place. They don't feel actual planning is going on at this point and asks Commissioners to take a step back, let the county do some planning rather than sticking this industrial zone in people's back yard. There are gravel pits and that line the area. The county's job is to look at the overall map and plan the growth. He feels that Walter's is headed south with development and suggests the county look at planning to the south rather than east is the best way to go in his opinion.

Those wishing to agree with what was already said and not speak: Colleen Eckman – sent a letter, Brent Leatham, Ruth Williams, Kelly Roberts, Nathan Routsen, Melodie Head, Malory Judy, Kort Black, Lane Judy, Quinn Norris, Marlene Clay, Samuel Clay, Jake Head, Emily Crain and Jim Crain.

Rex Head: States in 1980 he planted a six row wind bank of trees, and now there are about 500 trees. They never heard anything except frogs and he and his children would catch pollywogs and frogs in the pond. Now there is pile of dirt is 4 – 5 feet from this property line.

Elaine King has a question 433 Palomino, Sugar City.

Elaine asks about this area being contiguous because of agriculture. She has a concern about the gravel pit overlay not being in place in 2015. She states that was a recent decision of the county and doesn't feel that the zoning there really fits with the comprehensive plan.

Lou Cameron, 2285 W 4200 S, Rexburg.

Mr. Cameron states: As a person that bought a home he wanted to retire and sit around and watch the grass grow; now he is watching the dust grow. He does not believe it is fair to put a gravel pit in resident's back yard and he thinks it needs to be resolved by the county. He had a crusher and he had problems with the City. This is in the back yards and he doesn't understand why we would even put a gravel pit in that area. Trucks are going everywhere. This is not the best thing to have happen this close to a school and during school hours. The dust has slowed down a little bit. He requested water be put on the crusher, but they still get a lot of dust. We are looking at people's lives that are behind that. The south wind carries everything with it. The Commissioners have a tough decision to make. Nothing has been done on the berm. He has planted willows and trees to mitigate, but still gets dust.

Dan Gordon: Thanks for hearing. Please protect us.

Weston Davis Attorney for Edstrom's. Rebuttal.

Dept. of Lands report was not presented to P & Z because it had not come up yet. This is a call to rework a bond. There wasn't a finding of violation. Based on what Mr. Edstrom is proposing moving the existing pile back to Parcel 1 they will be on the 40 acres covered by the bond. This forum is to work out issues and to get out in front of them. Sharon Oakey in the P & Z hearing states: "We all live with nuisance". Land values and planning were discussed. Weston states: You can't plan in boxes what is happening in the county. Planning is set up to deal with counties as they plan and grow. We're not asking for a spot zone. We are bound to move gravel piles to the west side. Parcel 1 is not regulated; they don't have to, but want to be a good neighbor. Parcel 1 and 2 will not be run at the same time and are proposing phasing. Edstrom's do have water rights and they are being used for dust control. In level playing field Weston asks Commissioners to consider evidence presented and see they are doing everything they can to make sure that counties rights are appeased. We have like things together and we need to keep it that way. Resounding issue is we want to talk, just don't do it in my back yard. Edstrom provides a valuable material to the county. Edstrom's have made some very nice offers. Let's not plan out of fear. Surrounding businesses and the highway make this a desirable location.

End public comment portion.

Commissioners discussed the issues that were presented.

After review and discussion Commissioner Smith: I am satisfied with the concessions that Edstrom's have made. That they have come prepared to try to make more concessions as far as dust control moving forward, if this is approved. Which will be addressed more if we get to the condition of use area. I commend them on that and I hope that the opposition can also see that that they are trying. I will make a motion that we approve the comprehensive plan change map. Based on this colored map that is on our screen. That is 580 feet off of the east line of the highway and 250 feet south of the north boundary as the map indicates with the color codes there. Commissioner Weber seconded. Commissioner Mendenhall opposed saying he could not vote in favor of the comprehensive plan map change. The motion passed.

Commissioner Weber closed the public hearing at 7:49 p.m.
Approved:

Jon O. Weber, Commission Chairman
Todd Smith, Commissioner
Brent Mendenhall, Commissioner

Attest: Kim Muir, Clerk