



**Madison County
Commissioner Meeting Minutes
November 9, 2020**

Attendees:

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

Pledge of Allegiance
Invocation by Commissioner Weber

ACTION ITEMS

This meeting was also streamed electronically to the public.

Public Comment: There was no public comment.

Calendar Items:

The next Commission meeting will be Monday, November 23, 2020.

IAC Fall Training will be held on November 12, 2020, in Idaho Falls. This meeting was cancelled by IAC due to COVID concerns.

Discussion Items:

COVID-19 discussion and update

Madison County COVID numbers are back up closer to 200. The hospital is filling, but not overflowing. They are aware of the situation and are prepared, but they are not overwhelmed at this point. Madison has gone from a high of 7 patients and then back down to zero. If they need to send patients to U of U, they will not take them, because Utah hospitals are stressed.

Wage Study decision

The County will hold off on the wage study for now.

Courthouse birthday celebration

Vicki Grover was present and has agreed to be in charge of the courthouse 100-year celebration. Chris Mann and the Chamber of Rexburg would like to help in any way they can. There will be a ribbon cutting, a short speaker and celebration. This will be held on Saturday, December 19, 2020. Commissioner Elect Doug Smith will represent the Commissioners on the committee. Vicki Grover accepted being the chairperson for the celebration and is excited to move forward.

Waste District update and discussion

An agreement is currently being negotiated. It will be on the next agenda.

Contracts/Documents:

After review and discussion, Commissioner Mendenhall made a motion to sign and approve the Canvass of Votes for the November 3, 2020 General Election. He also commended the Clerk's office for a good job. Commissioner Smith seconded and voting was unanimous. The motion passed.

After review and discussion, Commissioner Smith made a motion to sign and approve the Idaho Office of Emergency Management, 2020 Subrecipient Agreement. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

After review and discussion, Commissioner Smith made a motion to sign and approve the Modification of Grant or Agreement, U. S. Forest Service. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

After review and discussion, Commissioner Mendenhall made a motion to sign and approve the 2020 CAT Board nomination form nominating Todd Smith to the CAT Board. Commissioner Weber seconded and voting was unanimous. The motion passed.

Purchase and Sale Agreement between Dana Parkinson and Madison County. This will go on the next agenda as it is still being negotiated between the lawyers.

LRHIP Grant for the eastside frontage road paving. See below.

Routine Matters:

After review and discussion, Commissioner Mendenhall made a motion to approve the Commission meeting minutes of October 26, 2020. Commissioner Smith seconded and voting was unanimous. The motion passed.

After review and discussion, Commissioner Mendenhall made a motion to approve the claims presented by the Clerk. The General Fund total \$15,570.71. The grand total of claims was \$255,242.94. Commissioner Smith seconded and voting was unanimous. The motion passed.

After review and discussion, Commissioner Smith made a motion to sign and approve the Certificates of Residency for Hailey Ball, Lexy Layton and Brittany Jones. 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 Mendenhall seconded and voting was unanimous. The motion passed.

Executive Session:

Commissioner Weber made a motion to go into Executive Session at 9:30 a.m. Idaho Code § 74-206(1)(b) employee matters and (d) exempt records, Ann Marie Sorensen, Indigent Clerk. Commissioner Mendenhall seconded the motion. A roll call vote was taken as follows: Commissioner Weber – yes, Commissioner Smith – yes, Commissioner Mendenhall - yes. The motion passed. Commissioner Weber returned the County Commissioner meeting to open session at 9:45.

After review and discussion, Commissioner Mendenhall made a motion to approve signing an approval on Case No. 2020008. Commissioner Smith seconded and voting was unanimous. The motion passed.

Assessor's Office and Shawn Boice:

Lois Nelson qualified for homeowner's exemption, but there are three owners on the property. The adjustment needs to be lowered. She qualifies for 100% of homeowners, but 25% on the circuit breaker. This will credit 75% of the homeowner's exemption. After review and discussion, Commissioner Smith made a motion to sign and approve the Tax credit for Lois Nelson for the homeowner's exemption in the amount of \$888.73. Commissioner Smith seconded and voting was unanimous. The motion passed.

Kelly McCrae purchased his home in December of 2019. He lived in his home for a year and then came in to see Shawn Boice. He forgot to apply and does not currently have the homeowner's exemption. After review and discussion, Commissioner Smith made a motion to sign and approve the Homeowners exemption issue for Kevin and Violet McCrae by reducing the amount to a credit of 50% or \$585. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

The Department of Motor Vehicles was discussed. The software was not ready to be released and it has caused many backups. Solutions to the problem were discussed. Commissioner Mendenhall prefers they go to a 4-day work week. Shawn stated Monday and Friday are the busiest day for them, and he is considering a mid-week shut down for a few days. Shawn will make a public announcement after he has met with employees and made a decision.

Tawnya Grover and Alan were present from the City of Rexburg. They discussed property currently at Thompson Paving's that Valley Ag is purchasing and they are recommending a change to light industrial zoning from community business. This property was in the impact area and the City of Rexburg held the hearings. After review and discussion, Commissioner Smith made a motion to sign and approve the Final Approval for rezone in the impact area at 1350 Thompson Street to light Industrial on Case #20-00790 located on West Moran View. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

After review and discussion, Commissioner Mendenhall made a motion to sign and approve the City short plat under the county's administrative permit. This was brought to the Comm. to approve because there could be short plats that occur in the impact area. The agreement between the County and City in the impact area is the City's rules apply, but the County enforces them. Commissioner Smith seconded and voting was unanimous. The motion passed.

Public Hearings Val and Kathy Moss, Right-of-way in Thornton

Present were Val and Kathy Moss, Lanny Anderson, Chester Marsh, Bradley Petersen, Shawn Boice, Tammy Erickson and Cindy Roberson. Nellie Leatham joined telephonically.

Val Moss is proposing the County vacation a right-of-way located in the Thornton area where he has property. It is for a road that was never built. Also it is to follow an existing fence line and the property has a partially completed cabin exterior which is now sitting on the right of way.

Commissioner Weber made a motion to open the public hearing at 10:20 a.m. A roll call vote was taken as follows: Commissioner Weber – yes, Commissioner Smith – yes, Commissioner Mendenhall - yes.

Commissioner Smith recused himself from the discussion because of a conflict of interest as he has had real estate dealings and has discussed the matter with both property owners. All appropriate notices were given.

The property is in the Thornton historical townsite area. A packet was presented and is attached hereto. Mr. Moss put a cabin on the property that sits in a portion of the right-of-way. Going back through records, the County found the northern part of the property right-of-way was abandoned by the county, but could find no record where anything was done on the southern property. Val Moss has requested the public hearing and paid for it. One of the GIS maps show the northern existing property lines in the Moss's name now. This right-of-way is approximately .06 acres. The section to the south shows no records being deeded to anyone and show it is a public right-of-way.

Nellie Leatham joined telephonically and said the property was split equally between Chester Marsh and herself years ago. She came to the Clerk's office in about 2003 and was shown it had been split with one person owning the north and her to the south. She thought this meeting was in 2003, and the right-of-way was completed then. Documents have only been found on the north side. She said she should have been given the other half at the same time it was given to the Marsh's.

The county has a deed for the north half of the easement showing Chester Marsh who sold to the Pinnock's who in turn sold to Val Moss, but there is no documentation on the south side of the property. Nellie said it was her the other half was deeded to.

Those speaking in favor of this action:

Chester Marsh address: 245 East Ririe Highway, Ririe ID 83443

Chester states he has paid taxes on his half of the property since 1993 until he sold it to the Pinnock's. He has no idea on the south and does not remember being at that commission meeting. He submitted a letter for the hearing. He remembers there being a great big tree being the corner of the survey. Cathy Moss showed a picture of the tree and said there was a survey marker.

Lanny Anderson: 5137 S Hwy 191, Rexburg, ID 83440

Back when he had the property across the road it came to litigation. The property had to stay the way it was because of eminent domain. The fence lines have been in for 7 years. All attorneys agreed it came under eminent domain. We are ending up with one property completely missing.

Commissioner Mendenhall asks if there is any reference to the fence line.

GIS has done a review of that parcel and there have been no taxes paid on the parcel. Nellie states Val Moss ripped the fence line out. Val said he did take the fence out because the snow had knocked it down. Nellie was told Val ripped the survey markers out also.

Val Moss 5362 S Hwy 191, Rexburg: He has tried to talk to Nellie a few times and it wasn't successful. He wanted to show pictures of Nellie's ground to the back. He showed her ground as he perceives it and where the old fence was. The corner post was shown.

Commissioner Weber said the question is still the county right of way. The documentation back in 1993 shows the deed to the Marsh's to the north and we are still wondering why there is not documentation for the south. Val showed on the map the disputed area. A portion of that property was abandoned in

1993. There is no indication that the parcel in question was deeded to anyone. We do have record that the east side was abandoned.

Troy commented that in the past the County has split the right-of-way between two neighbors 50/50, but there is no set rule. We have the deed on the property to the east. The warranty deed in the file from Pinnock, shows Val purchased the property in November, of 2019. Nellie states she was never contacted about it. Kathy Moss was at the meeting and said Nellie was in on the meeting. Records indicate the south 33 feet in the Thornton town site was deeded to Alberta Marsh. A question came up by the commission about an abandonment hearing in 1993. Bradley Peterson presented pictures which are attached, but this document was not part of the property in dispute.

Nellie said her property taxes have fluctuated. She remembers she came into the Clerk's Office and the Clerk's Office got out the book and showed her where her name was on the property and told her it was all taken care of. The original right of way was 66 feet and is now half of that. Nellie asks why Lanny Anderson has anything to do with this matter. The response is to be a witness and being able to validate fence lines.

Regarding options, Troy Evans stated it appears clear this land in question is a county right-of-way. As such, the County does not need to abandon it. Another option would be to abandon the property but not give it to anyone. Then the landowners can take it to court in a quiet title action to determine who the owner is. Alternatively, the County can abandon it, and deed it to one or more parties as they deem fit.

Kathy Moss states they have tried to work it out calling Nellie twice, but she is uncivil. They were shown the property line and they didn't know any of this when they built the cabin. DEQ won't give them the septic permit until it is settled. They have no heat in the cabin and they need to have it settled. They have waited for over a year.

Nellie sees where they paid for a hearing to have the Commissioners look at their request to abandon this property as clarified by Bradley. She believes this is county property that has been abandoned. Val is also making a claim of ownership.

After review and discussion, Commissioner Mendenhall made a motion to abandon the right-of-way as discussed. Commissioner Weber seconded and voting was unanimous. The motion passed. The question is who gets the property now?

Both Val and Nellie want the property. Nellie thinks it was done decades ago, but there is no documentation stating this. There is no clear way to give the property to the owners.

Commissioner Mendenhall said no one destroyed papers in the County, but they can't find any documentation Nellie is speaking of. Commissioner Weber stated if the entire property goes to Nellie and her family, there will be the Moss's cabin located in that property.

The Moss's discussed this and are willing to come to an alternate resolution with their neighbor. A review of the map was had wherein what would be equitable to both neighbors. After this conversation, Commissioner Mendenhall made a motion to split 13 feet to the Moss's and the other 13 feet in to Nellie. Bradley Peterson will then meet with the parties to determine exactly where this line will be drawn. Will it be north to south, or east to west. Regardless, it is the Commissioner's desire to divide the abandoned

right-of-way equally between Val and Nellie. Commissioner Weber seconded and voting was unanimous. The motion passed.

The public hearing was ended at 11:15.

Jamie Ashcraft, Rexburg Farmers Market:

Evan presented a breakdown. Jamie thanked the Commissioners for the opportunity to hold the market at the fairgrounds. All talked about easy access, better parking and the location allowing more community members to come in.

The Farmers Market is a vehicle to help local people sell their goods and cannot afford a substantial increase and are worried that the additional rental fees will force them to move and moving only hurts the market every time they do.

The Board will work with Evan and are willing to do extra cleaning and are willing move to alternate areas of the site to allow the grass to recover. Evan presented a breakdown of charges saying they have charged \$250/day for most events, but wants to work with them to come up with a fee that works for both parties. If we have 35 – 45 vendors, we want to be accommodating, but if vendors plug into our system we are not responsible and liability insurance needs to be discussed. Jamie stated they do have insurance and will send us certificates. Evan presented paperwork showing about \$225/week is his actual cost. Commissioner Smith asks if we could go \$130 per week from the current \$65. Jamie will rework her budget and let us know if they can make the increase work. We want to be good partners, but it needs to cover expenses.

Sugar Salem Cemetery Board, Funding discussion:

Joyce Cromar, Bonnie May Jackman, Elaine King, Dennis Forsgren, Lawrence Nelson

The CHC grant the Board applied for was denied. A new pump, cinderblock shed and additional dirt is badly needed. Joyce estimates costs over \$50,000. The electrical bill and maintenance costs have been more than usual and accounts have been exhausted. A levy increase was discussed, but is not possible. Volunteers will be requested to build the shed. Commissioner Elect Doug Smith will look further into a less expensive pump as this seems too expensive for what is needed.

Justin Riley, Ditch in County right of way:

Justin 7833 South 200 West, Rexburg. His family purchased the old Archer school and received 3 shares of surface water. They have been trying to get surface water to their property. The canal master remembered the head gate that was there previously and they are pursuing a ditch. The church close by does have a water system. The cost to replace the system is \$30,000 - \$40,000. He would like permission to install a ditch in the county right-of-way. The original the ditch came through an adjacent field, but was abandoned. The system in the well would need to be completely replaced and you have to water from your assigned head gate. He wants to go on the east side of the road. Commissioner Smith states there are power poles. From the road to the fence line, the county owns the right of way and there is a culvert there that crosses the road. Justin states the speed slows down just in front of this area.

Cindy was present from Road and Bridge and states the ditches are a hazard and can cause liability to the county. Culverts were discussed, but are expensive and you can't water the road.

The canal company said this is between Riley's and the landowners. The Riley's would maintain the ditch. Commissioner Smith asks about moving the ditch to the other side, but it would require a culvert. This

would shorten the county area. The county would agree to put the culvert in, but Justin agreed to pay for it.

After review and discussion, Commissioner Smith made a motion to sign and approve the Riley's putting the ditch in on the county easement on the east up to the point of where their property begins on the south. The exact location was drawn on a map and included with this minutes. The Riley's will maintain insurance on their ditch in this location, and the county will install the culvert at the Riley's expense and the Riley's will assume any liability, clean up or maintenance on the east side of the ditch. Commissioner Smith seconded and voting was unanimous. The motion passed.

Paul Sorensen, Review and sign: Computer Arts Agreement

Law enforcement is running their own software now, but are running the civil matters through Computer Arts, which is costing the county more this year. Paul recommends that we begin budgeting to update the software countywide.

After review and discussion, Commissioner Smith made a motion to sign and approve the Computer Arts Agreement for FY 2021. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

Video equipment Commissioner Room:

Paul would like to update the technology in the Commission's Room. He has had two companies submit a proposal. There would be 5 – 7 TV's purchased and actual room cameras, but would use the current sound system. Ballpark figures would be \$30,000. Paul is asking if we can move forward with the project. Commissioner Mendenhall would also like to have the administration building's conference room outfitted for better technology as well. Paul was given approval to move forward a purchase the equipment to update the Commission Room.

Kelly Hoopes, Horrock's Engineering for grading projects, and adoption addendum for Transportation Plan:

Kelly showed the selection criteria for the eastside frontage road LRIP grant. Kelly wanted to talk about the Transportation master plan, which is revised every 5 years. The county has done really well and the plan has served the county well. Projects to continue show there is funding available for an update and we are eligible. The recent census numbers made a difference, but LHTAC suggests we wait until next spring. Kelly suggests we prioritize where we want to go with projects as a write up to the Master Plan addendum. Commissioner Smith asks if we can add the landfill site to pave the road leading to the land fill site. Kelly thought this could be worked into the plan. We can reprioritize in a few years as plans change.

Kelly reviewed projects that could be put on the priority list including Salem Highway, Menan Buttes on the west side of the Butte, Cress Creek road, the overpass on 14th N. over the Moody project (this would fall to ITD jurisdiction, but would be good to include), 3000 round-about in Hibbard. Commissioners asked if we need to hold an open public meeting to put a project on the plan?

After review and discussion, Commissioner Smith made a motion to approve the addendum to the existing transportation plan and prioritize the east side frontage road as the No. 1 project and No. 2 the 3000-West round-about with a provision for potential stimulus projects. LRIP project priority would be No. 1 Salem Highway and No. 2 Twin Buttes overlay with Jefferson County. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

There being no further business Commissioner Weber made a motion to adjourn the meeting at 1:35 p.m. Commissioner Smith seconded and voting was unanimous. The motion passed.

Approved:

Jon O. Weber, Commission Chairman

Todd Smith, Commissioner

Brent Mendenhall, Commissioner

Attest: Kim Muir, Clerk