



Abbreviated Minutes: Complete Set of Minutes Are on File in The Clerk's Office

**Madison County
Commissioner Meeting Minutes
April 11, 2023**

Attendees:

**Todd Smith, Commissioner Chairman
Brent Mendenhall, Commissioner
Dustin Parkinson, Commissioner
Troy Evans, Deputy Prosecuting Attorney
Kim Muir, County Clerk**

ACTION ITEMS

Pledge of Allegiance: By All
Invocation: Commissioner Mendenhall
This meeting was streamed electronically.

Discussion Items:

Commissioner Parkinson reported on a few accidents that have occurred at 2120 North and 2000 W roundabout. A guard rail and/or more signs were discussed. Commissioner Smith will talk to Road and Bridge to discuss options.

The Commissioners discussed the need for a policy defining the proper use of the Commission Room.

A new Sheriff's Office space was discussed and would be just under \$1,800 per month on a year to year lease. The funding for the lease will be drawn from the Building and Grounds fund and budgeted in the next year for the space. The Office is still waiting to hear if they get a grant for new equipment. They do have some funding in the 911 account.

There may be space available in the Search and Rescue Building for the Coroner to move records and to meet with people. Commissioner Mendenhall will talk with Sam for the time being.

Public Hearing, Preliminary Plat for Sunset Estates Subdivision:

Commissioner Smith opened the public hearing at 8:42 a.m. The meeting was noticed properly. There was no conflict of interest declared by any Commissioner.

Commissioner Smith stated that this Board heard this back on October 17, 2022 and that the decision was to table the application with a request that the applicant provide new information which will be presented today.

Gary Armstrong, Planning & Zoning Administrator states the application is to subdivide approximately 87 acres into 43 buildable lots, varying in size from 1.004 acres to 3.2 acres at approximately 1600 W and 3300 S in Rexburg. This is the fourth public hearing with this applicant, two public hearings and now two with Commissioners. Most of the concerns revolve around water, Paradise Lane connection and the subdivision to the north. As the hearing progressed based on input from the public, P & Z heard and the applicants have revised their application based on the following nine additional items the Commissioners requested to be completed.

1. Date of decree for water rights on the property.
The Reid Canal Company confirmed that the water rights started in 1930 and that Sunset Estates is the owner of 87.8 water shares.
2. An official statement from Reid Canal that they are in favor of or reject irrigation use.
Reid Canal has no objection to Sunset Estates Subdivision using a collection pond to feed a pressurized irrigation system that coincides within the allotted water rights of past irrigation use.
3. Opinion from Madison County Fire Department of requirements being met.
Planning Administrator, Gary Armstrong – confirmed with Stan Crittenden of the Madison Fire District, that the subdivision is close enough to the hydrants on the south end of Rexburg, near the hotels along Yellowstone Highway, that there is no on-site fire-flow requirement for the subdivision.
4. Exploration of a fire gate if it is feasible and what it would accomplish.
From an emergency services stand point, EMS would prefer not to have a gate there. Gates can get blocked and unusable, especially in the winter months. Additionally, for road maintenance, including winter plowing, a through road is preferred.
5. Manager of water and ditches identified by name, and will it be until the last lot is sold.
Marshall Egan of Sunset Estates LLC, will be the manager of water and ditches until the last lot is sold in the Sunset Estates Subdivision.
6. History of flood irrigation on the ground-provide a narrative of what it is like and how it spreads.
Property owners stated the land was flood irrigated from the feeder ditch on the south of the property. It was gravity flowing South to North from this feeder ditch. That is what they observed prior to the purchase of the land. Tried to get more info from the previous land user. Called and spoke to daughter but was not able to set a time to talk to them about their experience.
7. See where it is spelled out in HOA/CCRs regarding ownership of the water rights and that they are transferred to the property owner and are non-transferrable. The water rights stay with the lot.
The water rights of each lot in the Sunset Estate Subdivision are non-transferable. The water rights to each lot must remain with the lot.

8. Are the developers willing to put into writing they will be responsible for the turn lanes on any arterials?
Developers have been working with planning staff. The Development Agreement will be submitted with the final plat application.
9. Commissioner Doug Smith would like to see a proposal for a pressurized system and feasibility of why it would service better than flood irrigation. He prefers this type of system vs. flood irrigation.
Proposed pond and access lot have been added to plat and plans. Preliminary piping and layout have been added to site plan. Calculation for amount of usage have been done. Storage needed have not been finalized but will on final plat and improvement plans.

Barry Bame, 2295 N Yellowstone, Suite #6, Idaho Falls. Connect Engineering, representative for the development. Gary did a good job and he doesn't have much to add. Owners did elect to change to a pond and go to pressurized irrigation vs. ditch surrounded by it. Also, the 100-foot setback for the requirement. He and the owners have really done work on behalf of the subdivision to mitigate and alleviate the concerns of the public and the Commissioners. They have done their best to meet the requirements of the subdivision. The traffic portion has been researched and implementation is ongoing. They feel they fully comply and it will be a good subdivision and will be good homes. The stub street to the next subdivision has been included.

In Opposition:

Kent Riley 3531 S 1661 W. He is 77 years old and has been there all his life. He understands the ditches and the water and how it runs. There are people living there and they have not been contacted. They have a responsibility of maintaining and being aware of the problems on the ditch. The canal company has the responsibility of funding the head gate. Everything comes down the ditch. The head gate needs to be checked every other day because it clogs up. Some people think they can take the water anytime they want, he feels they are stealing, he has to start all over again. Some people are opening up the ditch and they don't close it. It cost him \$30,000 to repair the basement for the second time. They have not contacted anyone on the ditch and it's a mile or a mile and a half from the canal. It is their responsibility to take care of that. He knows the problems and there will be more. He is worried the pond will be an attraction for the children and there will be a liability. He hopes there is justice and liberty for all and that this can be done for everybody's interest.

Les Huot, 3197 Paradise Avenue. He would like to request the county to consider stop signs at Southbound and Northbound to hopefully slow down the traffic.

Norm Riley, 1623 W 3400 S. Those houses to the east have dropped 20 feet on the static water level. He was at 25 feet when it was irrigated and it is tough to get wells working. When the wells were put in in 1975, they were at 50 feet. The field is the bottom of the drinking glass for static water. The West side is where they want to put the pond in. The pond should be on the East side because the West side subs up. He is within a foot of going dry and sucking sand. Where is this being addressed? The 77 acres has been the bottom of the ditch where all of the water goes. The

water won't make it to the end of the ditch. Where is the recharge into the aquifer? The president never brought that concern up.

Kurt Papenfuss, 1926 W 3000 S. He is concerned about 3000 S. According to Road and Bridge, there is 3" of asphalt that needs to be laid. It was seal coated about 1" thick, if you add more traffic it will destroy the road. On the West side of the intersection on Archer Lyman, his wife was turning and someone else was going at a high rate of speed and jumped onto the adjacent property. He is also concerned about wells, his neighbor had to go another 30 feet on his well. With more houses, what will that do to our existing wells?

Justin Riley, 1946 W 3400 S. Traffic and the stop sign keeps getting shorter. The pond is a concern for him since he has five children. If they could consider the location be moved to the middle of the subdivision. He would like to see the pond lined. It has gone before P & Z twice and they have asked for suggestions. If it is approved here it will go back to P & Z. Wonderful time for the hearing because it's Easter break and there are many not here to oppose. There are subdivisions that are nice and beautiful. There have been fires and he is concerned. There is not much water, the water and the hotel is too far away. Why can't pond be accessible to the Fire Department. If planned properly it could be a good thing, if rushed, there will be push back.

Roger Riley, 1764 S 4000 W. A lot of the things and he is concerned with have been addressed. John Wayne said "Life is Hard, but it's harder when you're stupid." There are issues that need to be addressed before approval is granted. He is going to talk personally and go back to 3400 S when there were not many houses. On the West side of the road there is a drainage ditch. His father put money into that. He has learned the Pioneers were smart and you can't run water uphill. There have been sub water issues with Silverstone Estates and it has not been fully addressed. The Health Department has put in four test sites for the septic systems. In the middle of that field when the land was leveled, there are places you could sink a tractor when the remaining field was dry. If they sell that lot they can't build because of the soil content. Water rights, will everyone will be issued a water right from the county. All around the outside of Ricks Road there are big lots – going down 3400 S they have issued lot sizes. They are now letting more houses come in, but where are the accesses? We can't predict the future. He appreciates the Commissioners public service.

Sherwood Ricks, 2958 S 1400 W. He grew up on 1400 W as well as his grandparents, parents, uncles. He resists change. It's not right for a development to come in anywhere and change the aquifer with the mention of pumping. He would like to see a reserve set up where there is a planning process. The wells go dry and there should be some shared responsibility. It's not an easy or inexpensive process and we need to put responsibility back where it needs to be. He feels it's not planned and organized. If you put 43 homes there will be people crying foul with their own depth. Not opposed to development per se. He feels he is representing the 43 home builders without a clue of what is hitting them in the face. He appreciates the Commissioners work.

Mel Mortensen, 1709 W 5500 S. Water is a main concern. Hi son runs the canal and that ditch is the worst one on the whole canal system for people using it. If they have to pump the water in

the night, the pump will turn on in the middle of the night. It is a tough thing to have the pond and feels they will waste more water than they use.

Karen Brown, 1445 W 3400 S. When the notices come out they are not shown updated changes. It would be nice to know the changes before the meetings. The water table is an issue and it will drop because of the water usage going on. She is raising 11 kids on her own and she cannot pay to dig a new well. They should have responsibility if wells need to be re-dug, not the responsibility of the existing homeowners. The pond is a step in the right direction but still a concern and the traffic on the road is a concern. Sustainability in this area is a concern. There needs to be a balance in growth.

David Riley, 6986 Sam Tillery Lane, Knoxville, TN. He has been absent for 30 years. The aquifer issue needs to be addressed. It needs to be recharged. The county gets bigger and bigger and throws snow on his fence. Who is going to pay to replace his fence? This is throwing it back on the property owner. He walked the ditch yesterday and asks who is going to maintain the ditch. He has the sole feeder ditch and it has been abused and neglected.

In Favor: None.

Neutral:

Rachel Gee, 3500 S 2140 W. The issues were addressed. Knowing there is a pond is making things better. Is the water storage going to be enough to maintain a 10-14-day rotation with other irrigation users on there? Will the water manager, Marshall Egan, be here in a matter of time to fix the situation? She is glad there is a pressurized system. Was it designed by an engineer with experience with water pressure? If everyone's wells are at 45 feet and we are adding 43 homes, what will happen, still going to be clean water? What will happen with the property in the process of selling the lots. Establishing the HOA and maintaining the property when deemed necessary, what does deem necessary mean?

Matt Webb, 1954 W 3000 S. Lives at the opening of his subdivision. Having more traffic down his road and he appreciates the curve to inhibit the traffic that would flow through there. He does agree with the idea of stop signs being installed. He feels 3400 S needs to be enhanced as a better road since it's a bit narrow.

Diane Batschi, 1675 W 3000 S. Her concern is with the traffic, she lives on a dead-end road and there is a fire gate. They need traffic flow on Paradise. Can we change the code regarding the fire gate in order to keep both neighborhoods safer and quieter?

Barry Bame, 2295 N Yellowstone, Suite #6, Idaho Falls. Connect Engineering, representative for the development. Regarding their planning and development, this subdivision has been in the works for two years and has gone through more than most. They have gone through numerous revisions and they have done more than the current code requires. As far as irrigation, it states

in the CC&R's that Marshall Egan is the ditch manager and he will coordinate with the canal master and neighbors. The water isn't going yet and they can't have meetings until the subdivision is approved. CC&R's assess views to plan for the future. Stop signs – he doesn't feel there is any pushback to putting in stop signs and he will discuss with Road and Bridge and they are happy to put them wherever warranted and R & B deems safe. The pond with stagnate water-the pump is located on the other side of the pond to help the water flow through and it has been taken into consideration. Existing conditions can be hard and it's not something for the County to keep roads up to date and improved. Sustainability improvements need to be warranted and developers pay for that. People coming in will help the growth and bring in more taxes. The fire gate has been addressed. Patrons would like a dead end, but there are other factors as far as fire safety. The HOA is required to be set up with final plat, it is not intended to wait for all owners.

Marshall Egan, 6072 S 46th E, Idaho Falls. Water is an issue. He feels they have it planned to have more water than before for homeowners in the area. He cannot control the aquifer. Where they are at the end of the ditch, will it be maintained by the current owners so that they get their water? There are issues and concerns. Pressurized system will be there, will the pond be big enough to water 4-5 days, we will take our turn. If he was a property owner, he would be excited since home values are going to go up. He does not like change. He went 20 years without neighbors and now he has them. They have addressed the water issues and they have revised to make it better. He is familiar with the ditch and how it runs. He has access to equipment to take care of the ditches. We have homeowners that will have nice lawns, but we have to work together.

The public comment portion was closed. The Commissioners will now discuss.

Commissioner Mendenhall: Property rights come into play, neighbors moving in have impacted them, maybe not 43 at a time. It has been sent back to the developers and they have worked to correct the situation. He is aware and understands the objections. He wants people to move-in and feel comfortable in our community. His questions have been answered.

Commissioner Parkinson: He has looked over reports and there is a lot of concern on the feeder ditch. It is in the best interest of everyone to work together to maintain it. The subdivision is the end of the ditch and they will want to work together. He thinks that is doable. The aquifer is everyone's concern and it is statewide. IDWR is where it needs to be addressed vs. the board.

Commissioner Smith: We have talked about the aquifer, wells and punching holes but don't have an answer for that, wish we did. They are addressed on each individual lot and they are addressed by Public Health. Has this application met our county codes? Contrary at first, but the issues that were addressed have been corrected. When we look at the facts of a subdivision, we look at the code currently on the books. We have poured over the pages; the developer has made a valiant effort to address the concerns of those around them. We have seen tremendous growth and we understand the precious water. He feels it meets or exceeds current code as it stands and what was asked.

After the preliminary plat motion, there is a 28-day appeal period that would begin today then another public hearing will be scheduled if there is an appeal. If approved, the final plat will be brought as an administrative agenda item.

After review and discussion, Commissioner Mendenhall made a motion to approve the Preliminary Plat for Sunset Estates Subdivision as provided in the application materials. Commissioner Parkinson seconded and voting was unanimous. The motion passed.

Teton Island Feeder Canal Company: Recharge in the County north pit, located in Teton, Idaho. We want to set another meeting convenient for all in the next week. Documents need to be presented. Can we group or get back together? Proposing no new permanent construction. New meeting time was scheduled for April 17, 2023 at 8:30 a.m.

The meeting was recessed at this time as Commissioners had other commitments. It will be recessed until 2:45 p.m. this afternoon.

Commissioner Smith moved to go into Executive Session Idaho Code § 74-206(1)(c) contract matters at 2:58 p.m. Commissioner Smith – yes, Commissioner Mendenhall – yes, Commissioner Parkinson – yes.

Commissioner Smith returned to Open Session at 4:25 p.m.

Commissioner Smith made a motion to adjourn the meeting at 4:25 p.m. Commissioner Mendenhall seconded and voting was unanimous.

Approved:

Todd Smith, Commissioner
Brent Mendenhall, Commissioner
Dustin Parkinson, Commissioner

Attest:

Kim Muir, County Clerk