



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

**Madison County  
Commissioner Meeting Minutes  
August 14, 2023**

**Attendees:**

**Todd Smith, Commissioner Chairman  
Brent Mendenhall, Commissioner  
Dustin Parkinson, Commissioner  
Troy Evans, Deputy Prosecuting Attorney  
Karen Daniels, Deputy Court Clerk**

**ACTION ITEMS**

This meeting was streamed electronically.

County Clerk Kim Muir was excused.

Pledge of Allegiance: By all

Invocation: Commissioner Mendenhall

**Calendar Discussion:**

Next Commission Meetings are as follows: August 28, 2023 (to include the annual budget hearing) and; September 5 and 18, 2023; October 11 and 23, 2023.

**Schedule of Commissioners:**

Altura picnic, August 23rd at 12:00  
Congressman Simpson, August 23<sup>rd</sup> at 12:30  
ITD Open house in Rigby August 23<sup>rd</sup> at 4:00  
IAC meetings in Boise September 25 – 28, 2023

**Discussion Items:**

Process of road approvals, turning a private road into a county road for new developments.

Gary Armstrong from Planning and Zoning was in attendance and suggested that if the roads are not approved by the County and because we don't have a licensed engineer in the County to perform inspections, then an application needs to come to his department certified and stamped by an engineer paid for by the developer. The applicant accepts any risk, in case changes are asked to be made for approval. In moving to this option only, Gary will see if a resolution needs to be changed or county code. This puts the responsibility on the developer vs. the County, and would relieve some time from the Road & Bridge department.

**Madison County Allowance of activities on County property:**

Commissioner Mendenhall has heard from some community members about what is allowed vs. not allowed in County parks. This has been a recent issue with the City of Rexburg and groups using its parks. The County is aware of the City's research on this matter and their research into the "Miller" test. This test came from a U.S. Supreme Court case back in 1973 which established a test to determine whether expressive materials cross the line into unprotected obscenity. This remains good law today and serves as a guide for First Amendment laws. Further, Idaho has state laws on obscenity in public places found in Idaho Code section 18-4104, and various other laws on disturbing the peace, etc. Commissioner Smith says it is hard to define what is considered free speech, freedom of expression, what is offensive or not, and how do you define obscene? What can and what should we do, if anything? A number of ordinances have tried to restrict this further which have drawn opposition and reversals from courts. The County is following this matter and what the City of Rexburg's response is.

**Contracts/Documents:**

After review and discussion, Commissioner Mendenhall made a motion to approve the Administrative Settlement Agreement Triple R Trucking. Commissioner Parkinson seconded and voting was unanimous. The motion passed.

After review and discussion, Commissioner Mendenhall made a motion to approve the Right of Way Contract, Delbert and Linda Edstrom. Commissioner Parkinson seconded and voting was unanimous. The motion passed.

**Routine Matters:**

After review and discussion, Commissioner Parkinson made a motion to approve the claims presented by the Clerk. The grand total of claims was \$1,038,408.90. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

After review and discussion, Commissioner Parkinson made a motion to approve the meeting minutes of August 8, 2023. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

**Personnel Actions:**

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

**Certificates of Residency:**

After review and discussion, Commissioner Parkinson made a motion to approve the Certificates of Residency as received for Heidi Acevedo, Luis Acevedo and Brittney Crisp. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

**Public Comment:** No one present to comment.

**Executive Session:** Commissioner Smith made a motion to go into Executive Session, Idaho Code § 74-206(1)(b) employee matters and (d) exempt records, Ann Marie Sorensen, Indigent Clerk at 9:27 a.m. A roll call was taken as follows: Commissioner Smith-yes, Commissioner Mendenhall-

yes, Commissioner Parkinson-yes. The motion passed. Commissioner Smith returned to open session at 9:42 a.m.

**Madison Health:** Budget presentation Rachel Gonzales CEO, Chrissy Yamada, Interim CFO and Brenda Smith, Controller were present. Operating Budget assumptions show stable which is great news in this healthcare environment. We have 270 local providers and 200 contracted personnel. Expense is going to continue to increase. We enjoyed a decent reimbursement with Medicaid, but are not seeing that now. The hospital is trying to keep expenses in line with projected revenue. The insurance line is high, and it had to add fraud prevention. We don't project contractual settlements (the amounts the insurance companies knock down before they pay). High usage replacements mean moving the older, but still useful equipment to the clinics. Commissioner Smith pointed out that the \$5 million. projected spending out of the budget is invested back into the community in the form of employees/payroll.

After review and discussion, Commissioner Mendenhall made a motion to approve the proposed operation budget for Madison Memorial Hospital. Commissioner Parkinson seconded and voting was unanimous. The motion passed.

### **Planning & Zoning:**

**Public Hearing:** Commissioner Todd Smith made a motion to open the public hearing at 10:16 a.m. **Arnold Ranch Plat Amendment with minor changes for Tony Stallings, Thomas Snarr and Lloyd Poole.** Commissioner Mendenhall seconded and voting was unanimous. The motion passed. There were no conflicts declared. Gary Armstrong stated the hearing was properly noticed and recording was started.

Co-application from 3 owners that came together with a solution. The applicants are requesting an amendment to the Arnold Ranch Subdivision. The requested amendment is considered "Amendment with Minor Changes" under Madison County Code 115-201(C). No new lots are being proposed. It will follow fence lines and match what is constructed on the ground vs. the plat.

Opposed: None

Neutral: None

In Favor:

Doug Hancey 378 Yale Ave. Rexburg. I would like to support this since it makes sense and will make everyone happy.

After receiving no further public comment, the public hearing was closed. Commissioner Parkinson said this is exactly what we want, neighbors to work on solutions together. Commissioner Mendenhall wondered if the plat amended will legally draw the lines so if in 5 years someone wants to change it again, no changes can be made. Gary Armstrong reassured it would be legal and unable to change.

After review and discussion, Commissioner Parkinson made a motion to approve the application from Tony Stallings, Thomas Snarr, and Lloyd Poole for a Subdivision Plat Amendment. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

**Right of way Vacation in Salem Townsite Neal Parisi & Kevin Clay:** There were no conflicts declared and Gary Armstrong stated the hearing was properly noticed.

The applicants are requesting that the County vacate the road easement that was platted in the Salem Townsite, but never constructed as a road. The applicants propose a boundary line adjustment, where each adjacent landowner would take possession of roughly half of the road easement that is currently between the two lots, with the proposed property line following the existing fence line. The easement does not provide access to any other properties.

Opposed: 2 letters opposing.

First letter is from Rees Butikofer 3070 N. 125 E. Rexburg. Madison County Planning and Zoning should not be issuing building permits for structures, wells and other construction that takes place on a platted roadway whether they are unimproved or not. The County's responsibility is to protect and preserve them. Salem has experienced attempts by developers to receive County permission to break up platted roadway patterns, some of which have not been in the community's best interest in the long run and this practice should end.

The second letter is from Bruce Shirley 2328 N 1000 W. Rexburg. Salem is positioned for unchartered growth as it is related to Sugar City and Rexburg. It is my personal opinion that the release of right-of-way's to property owners would be a grave mistake and would show a lack of fore-thought and vision as to what is coming to Madison County and the Salem areas.

Sandra Powell 3402 N. 375 E. Rexburg. Owns lot 3 of block 17 and all of 18, lots 1-4. In June, I was approached by a neighbor about submitting paperwork to vacate and split land, I spoke with Gary to find out the process and how it worked. I was told that Madison County would not enforce ROW ownership and had no intent to do anything. Piecemeal approvals benefit owners, it does not benefit Salem when not proposing lots to be smaller than 2 acres. This raises several concerns for her. How does the County benefit to facilitate growth in the Salem townsite and who benefits from abandonment? She wants what is in the best interest of current and future residents and believes the best interest would be to preserve current ROW plans and that a careful review and planning of the Salem townsite will benefit everyone.

Bruce Shirley 2328 N. 1000 W. Rexburg. Thinks this proposal undoes what early planners had foreseen and is shortsighted to look at an opportunity to make a quick gain on something and thinks it will devalue for future development. He is in favor of looking at the future and do some long-range planning for the community. He feels this is not in best interest for Salem as a whole to vacate these ROW's.

Commissioner Smith asked if those present agree that a lot of these ROW's have essentially already been vacated by "use"?

Bruce responded that Madison County didn't have the proper structure to control growth and building without permits, and didn't realize they were building on a ROW. The ignorance of the past has created problems for us right now, but we don't need to continue with that.

Rees Butikofer 3070 N. 125 E. Rexburg. He wonders how did a well get drilled in the middle of a ROW or how this was possible?

Commissioner Smith stated the County relies on property lines when getting permits.

Rees said he would like to see the right-of-way's preserved since they are very well set up.

Neutral: None.

In Favor: None.

Applicant, Neal Parisi 255 E 3250 N. Rexburg. He was surprised there is opposition because the rights-of-way were created 119 years ago. I am not asking to change but to preserve what is there. My neighbor and I agree to preserve what is now best use. The 4-acre parcel will be passed on to children, but not to develop. I didn't know I was stepping on toes of developers. I have no intention of developing houses and I don't know if it would develop in our lifetime but it could for our children.

The public comment portion of the public hearing was closed at 10:40 a.m.

Commissioner Smith stated we have looked at townsites, discussed on and off for a few years, will they ever be built out by the county? Townsites are a vital and important part of our communities for a school and/or a store. I don't see that happening in my lifetime. Are they necessary for future roads or are they not? Two owners own both sides of the block, not affecting anyone unless we feel in the future there needs to be a road there. Commissioner Mendenhall stated 100 years ago when this was laid out, it was different than it is for today. I don't see this affecting planning; it's such a small location. We are not talking about vacating all Right of Ways in the County, it is by design that two owners came together and say there won't be a road there. Commissioner Parkinson states if they do get developed, are they going to stick to the right-of-way's anyway? I see no issues with this. Commissioner Smith asks, do we see any negative consequences? We can't foresee 50 years, of course, but if anything, it would only hurt these owners if they did want to develop since they would have to ask for the ROW's back.

After review and discussion, Commissioner Mendenhall made a motion to approve the application and vacate the County road easement and boundary line adjustment as indicated in the application of Neal Parisi and Kevin Clay. Commissioner Parkinson seconded and voting was unanimous. The motion passed. The homeowners will have to get deeds prepared by their surveyor for the county to deed any interest in the rights-of-way to the parties.

The Commissioners noted that if anyone is interested in appealing this decision, there are 28 days from today to do so.

**Findings of Fact for Archer Acres:**

The applicant owns and operates a mobile home park on the location. The mobile home park was established prior to any County zoning rules, and is therefore an allowed non-conforming use (grandfathered in). The applicant is proposing to add an RV Park with up to 15 pads for RVs for short-term (less than 90 days) use between April 1-November 1. The RV Park will be served by an enhanced septic system and transient, non-community public water system, utilizing the existing well. Each site will have water, sewer, and electric hookups. A laundry/bathhouse will be added near the existing wellhouse that will include laundry, shower, and bathroom facilities as per MCC 115-149. The road will be looped around the entire RV Park and Mobile Home Park, to provide improved emergency vehicle access. The parcel is zoned Agriculture. Madison County Code 117-51 – Land Use Table – Identifies “RV Park” as “Allowed with a Conditional Use Permit.”

There will be a closed garbage area so garbage does not fly around. Longer than 30-day tenants will have background checks. Gary said it was a good example of neighbors working through conditions with P&Z.

Commissioner Smith reported concerns reading through this application. He appreciates conditions Planning & Zoning put on them. Madison County does not have an enforcement officer, but it would be Gary since they can't start business until all conditions have been met and he can evoke and shut down original RV park if there are enforcement issues. There would be a yearly check that would be complaint based. If we wanted to add to the conditions, we would have to have a public hearing.

Commissioner Mendenhall proposed to table the application and request additional information from applicant including approval from District 7 Health Department.

After discussion, Commissioner Mendenhall withdrew his proposal to table the application.

After review and discussion, Commissioner Mendenhall made a motion to deny the Findings of Fact for Archer Acres due to insufficient septic, density and traffic concerns. Commissioner Parkinson seconded and voting was unanimous. The motion passed. Archer Acres can choose to conduct their own public hearing with the Commissioners if they so choose.

#### **Scott Johnson/Aaron Denny: MEPI Presentation**

Commissioner Smith asked them to explain what they do. This is formally known as Medco and they are here to help everybody that needs help. Altura partnership for entrepreneurship has received a \$6.5 mil grant. They are working on recruitment and other issues that face us, like housing. We can try to bring as many jobs as we want but if they can't afford to live here, that is a problem. Housing price increase vs. wage increase is not enough. They are working with businesses; host familiarization tours and invite CEO's spend the day with them. We try to find the best spot for that business, City or County, since we would rather have them come to the region vs. not coming at all. Some will not fit the City since we don't have the acreage and will have to go to the County. Commissioner Parkinson asks, how can the County help support you? It is project specific, and they have asked the City to contribute \$10,000, and might ask the County to contribute as well.

**Coroner/Sam Butikofer:** Death Investigation Training

Sam stated that Commissioner Mendenhall suggested he come in and educate Commissioner's on how he conducts death investigations. Lieutenant Ron Ball, with Rexburg PD and County Prosecutor Rob Wood came with him.

Lieutenant Ball-yesterday we had an unattended death and like all deaths we investigate, we will have a result, we treat it like a homicide to error on the side of caution since that takes doubt out of people's minds. We spend a while in the house, take evidence with us, decide on an autopsy and work to know why they died. We investigate all calls like it is a crime scene. The Coroner's Office is called in to determine cause of death. We collect evidence and process ourselves or send DNA to state lab. We get statements from first responders and double check before leaving. We are in charge of the crime scene; The Coroner is in charge of the body and cause of death.

Commissioner Smith asked who is responsible for ordering the autopsy?

Lieutenant Ball said the Coroner or Prosecutors can override each other.

Sam stated if we don't ever come to same conclusion, our default is to have an autopsy.

Rob Wood said every unintended death is a homicide until you prove it is not. Every Prosecutor's nightmare is that "there should have had an autopsy." We have seen this with a case up in Fremont County. Fentanyl prosecuting cannot happen without an autopsy and/or if evidence was broken. Growth equals more homicide cases. Evidence without it being challenged is very important. It is a lot less expensive to do it right the first time vs. exhuming and testing.

The Commissioners discussed what point they would spend \$1 million or more just for a space for the Coroner.

Lieutenant Ball suggested not considering the money and stated he thinks an autopsy room and a place for the Coroner in the same building is needed. How big, I don't know, but there should be one. What Sam does is time consuming with paperwork and he needs an office for paperwork vs. taking it home. Exam room with joint Counties is a future possibility.

**Veterans:** Fence and water damage assistance.

Veterans report the water restoration bill is \$8,700, and will submit an ICRMP form. Water for irrigation and fencing will be discussed with Jared and Zach in Maintenance to look into options. The Veterans feel the fence needs more than just fixing up. Over 50 feet was bent and they would like to replace the whole thing. They would like to move the gate to North side but Commissioner Smith asks to keep it on the West side. The Veterans are asking for financial assistance from Commissioner's.

After review and discussion, Commissioner Mendenhall made a motion to approve financial assistance for a fence in the amount of \$1,900. Commissioner Parkinson seconded and voting was unanimous. The motion passed.

**Taylor Carr:** Review and sign: CDBG Application. The CDBG application is not ready for signatures yet. She is wanting to discuss Rexburg Fire Station addition on top of the bay, not for dispatch, just for educational and work training. They are currently using the Junior High for training space since there is not space in station. This matter will be discussed further at the next meeting.

**Lewis Hart:** Plano Bridge jumping solutions.

Lewis suggests, in order to still provide access to floating, as well as the bridge jumping, I propose installing a fence on top of the bridge with a sidewalk stuck to side of the bridge like in Blackfoot. The people would not bother traffic and it would keep people from falling into traffic. The sagebrush area belongs to BLM and he thinks you could put a parking lot and access point there.

Commissioner Todd Smith made a motion to adjourn the meeting at 1:04 p.m. Commissioner Mendenhall seconded and voting was unanimous.

Approved:

Todd Smith, Commissioner

Brent Mendenhall, Commissioner

Dustin Parkinson, Commissioner

Attest:

Kim Muir, County Clerk