

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



**Madison County
Commissioner Meeting Minutes
November 23, 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

ACTION ITEMS

This meeting was streamed electronically.

Public Comment: Kirk Mace was present to discuss Christmas gifts for County employees in lieu of a County Christmas party. Commissioners approved giving all full-time employees \$50 before Thanksgiving.

Calendar Items:

The December Commission meetings were changed to December 7 and 21, 2020. Seth Griggs from IAC will be here to train elected officials on December 7, 2020.

A celebration will be held for Commissioner Weber on December 21, 2020 after Commission meeting.

Discussion Items:

COVID-19 discussion and update:

There is a new situation report that Robert Kohler will be sending out to inform community leaders of the COVID situation. The Commissioners will be included to receive this report. The hospital is managing current caseload and are doing well. The hospitals are not being overrun. The Governor's current order states that meetings should be held to 10 people. Mental and behavioral issues are rising among kids.

Courthouse birthday celebration:

Vicki Grover and Doug Smith were present to discuss the celebration. Vicki asked if we could still gather for the celebration with COVID concerns. School students would like to tour the courthouse during the week and kids are together anyway in a classroom situation. Masks will be encouraged and precautions taken. A photographer will be arranged to take pictures of the students on the courthouse stairs. Vickie has formed a committee of about 7, and would like to know if there is a budget for her to work within. She has planned to put a banner across Main Street, put up a few yard signs and is looking for a student to design a logo. Giving a few citizenship awards was discussed.

After review and Commissioner Smith made a motion to set aside \$1,000 for the celebration of the Courthouse. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

Contracts/Documents:

After review and discussion, Commissioner Smith made a motion to sign and approve the **Archer Hwy curve safety Improvements LHSIP Application**. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

After review and discussion, Commissioner Mendenhall made a motion to sign and approve **Tenex Software Solutions purchase of E-poll books**. Commissioner Smith seconded and voting was unanimous. The motion passed.

After review and discussion, Commissioner Mendenhall made a motion to sign and approve the **Cooperative Law Enforcement Annual Operating and Financial Plan**. Commissioner Smith seconded and voting was unanimous. The motion passed.

After review and discussion, Commissioner Weber made a motion to sign and approve **Land purchase documents and bills with Phillip B. Parkinson Farms, Inc.** Commissioner Smith seconded and voting was unanimous. The motion passed.

After review and discussion, Commissioner Smith made a motion to approve payment to Jerry Rigby as Parkinson's attorney on the matter. This was negotiated as part of the land purchase agreement with the Parkinson's. Commissioner Mendenhall seconded and voting was unanimous.

Routine Matters:

After review and discussion, Commissioner Smith made a motion to approve the Commission meeting minutes of November 9, 2020. Commissioner Mendenhall seconded and the voting was unanimous. The motion passed.

After review and discussion, Commissioner Smith made a motion to approve the claims presented by the Clerk. The General Fund total \$144,128.28. The grand total of claims was \$391,644.73. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

Personnel Actions :

After review and discussion, Commissioner Mendenhall made a motion to approve the personnel actions. Commissioner Smith 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. 2019021. Commissioner Smith seconded and voting was unanimous. The motion passed.

Bradley Petersen, Flood Plain:

Eric Miller Yellowstone Earth Science. A request for engineering services was sent out and Eric is the only response received. Bradley is hoping to be proactive on a grant for the Lyman spillway to accredit the levy and keep it out of the floodplain. Eric spoke and discussed a task description and an estimated cost to do this in the future. There will be 10 – 15 tasks identified. Two of the tasks will be completed in the hydrology study. For accreditation to occur someone has to own the levy – currently Sunnysdale has ownership, but are not doing anything to further this project. A body would need to adopt sponsorship and be given ownership. A permit will need to be obtained to do any work on this levy. The levy is structurally sound and meets the requirement for FEMA to do the work needed. Bradley is hoping the lack of a maintenance program will be solved with this issue.

After review and discussion, Commissioner Mendenhall made a motion to approve the Partnership Agreement for the Lyman Creek Levy Accreditation Evaluation. Commissioner Smith seconded and voting was unanimous. The motion passed.

Public Hearing, Final Plat Hearing for Nordic Ridge Estates:

Commissioner Weber opened the public hearing at 10:00 a.m. Commissioner Smith recused himself. A roll call vote was taken as follows: Commissioner Weber – yes, Commissioner Mendenhall - yes. The motion passed.

Those in attendance were thanked for their interest in what happens in our county. We are in receipt of the online comments of those in favor, neutral and against, as well as the rosters from those present. Sharon Oakey explained the process of the Planning and Zoning Commission to make the decision to approve the subdivision. The surveyor was present at the meeting and Sharon thought it was a creative use of space. It is a space no one has to take care of or wants to take care of. Most P & Z board members felt this would be a great development. It was passed by an 8 to 1 vote. Concerns of the subdivision not being up to county code were turned over to Bradley.

Bradley stated the P & Z Board have gone above and beyond to ensure county code was being met. Traffic concerns have been addressed. At the request of Road and Bridge and the Fire Department the access roads have been reduced. The number of lots meet the requirements and are based on the number of lots, not on the bonus lots. He explained two of the three requirements of a bonus lot are required: 1. Totally based on amount of open space. 2. The opportunity of adding some sort of public facilities, i.e. a park. 3. Can you save the county money in maintaining the open space? This property met 2 of 3 of those and only 1 is required. Nothing has changed on the plat since the process began, other than changing the name of one road.

Commissioner Mendenhall read an email of one citizen from the online comments. Bradley confirms the ordinances are in place. Troy stated the code section and explained we are looking at requirements provided and this is not a time to rehash everything that went before it. If we are just signing the final plat we still go through hearing the public's comments. There were no conditions put on the project by the Planning and Zoning Commission. The minutes of that portion were read aloud by Commissioner Weber. All P & Z Board members approved except Mark Hansen. We will hear from the public, but it is mostly their interpretation of the code.

Jill Anderson, 473 Morgan Drive, Rexburg. Jill is in favor because she has a set of plans and is a person who always tries to follow the rules. When the development came to the surface they were excited because they allow for basements. She has asked questions, attended meetings and has educated herself on the codes and ordinances and has put her trust in the public officials who have been dealing with this

process. She thinks it is great that the public have a chance to share thoughts and feelings in regards to this subdivision. The county is going to experience growth with people looking for lots, and we currently have a shortage of homes. We need to be prepared for the future to make sure these problems don't continue. To table this issue will cause further frustration from all sides.

Megan Anderson, 4518 Timberline Road, Rexburg. Megan has lived in the county all of her life and she loves it. She wanted to do something positive for the Lyman area. As we have gone through this process, she feels there are some things in our county code that need to be fixed to make the process easier for those working on new subdivisions. She appreciates checks and balances in government and appreciates people can have their opinions heard whether they are for or against.

Matt Blomquist, 118 South Third West, Rexburg. He feels there is a need for this type of development. He is in on the development and they set out to do everything that was asked of them and have been very diligent throughout the process. He is hoping to continue to project completion.

Nicholas Vail, 272 South Third West, Rexburg. He is in favor of Nordic Ridge and believes they have designed the development to keep a country feel and put in a subdivision that fits the area. This meeting is to approve the final plat and feels they have complied to all steps required in the process.

Jaxon Anderson sent in an "In favor of" statement and it will be noted.

Kirsten Ruebush, 1893 West 5350 South, Rexburg. Kirsten states: The problem is whether or not the law is followed. She was at the first public hearing. She does not recall county code or law even looked at. To act on the plat today would be wrong. It is up to the Commissioners to make sure the law is being followed and the Commissioners should take the time to look at the law. She feels there is a problem with open space in places that should be a lot. Madison County Code is not being followed and an open discussion on how you see open space should be had. The open space is not dedicated to the public as community space. The density allowed is 50 homes and the park was used as required open space, additional recreation facilities should be added into the development. Kirsten expects Commissioners to take time and look at the laws. The fire mitigation plan says there should be a fire mitigating plan filed with the subdivision plan. It was not. The fire department has to follow county code. No stub roads have not been planned in. No traffic analysis was done. The inlet roadways do not meet required interval on those roads. The property is for sale across the road. If the county is not going to take the time to have these discussions, we are setting up for litigation issues. She is not opposed to the subdivision, but not enough research has been done.

Corey Carter, 34161 Lombardy Street, Rexburg. Corey is here in behalf of citizens he was asked to represent. He states Kirsten has presented well. As he has gone through this matter he has concerns, primarily people assuming the problem as others interpretation of the law. "Shall" means you must. Throughout the plan "shall" is used, rather than may. The law says roads shall be at a distance of 150 feet between roads. The natural area should be 40% by inclusion and there is no provision that fencing can be extended. These areas should be a separate and distinct area of land and need to be maintained in a natural state. Community space, if it's going to be a public facility should be maintained by the owner of the property and should also maintain the public space. Corey challenges the county to set the precedent, or it will open the county to litigation and further delay development and cost the taxpayers time and effort.

Mike Clements, 1585 5000 South. Mike is not opposed, but wants this project to be in compliance with the law. If the fire department requests a second access, then the location should be on a different road and space the accesses as the law states or move the access to another road. Mike would like to see a covenant on all properties that owners cannot fence and left open to all spaces. He feels they are not in compliance with the open space law and doesn't believe the requirement for a park are being met if it is being deeded to individuals. Open space needs to be public open space for public and family recreation. Does not like that Commissioner Smith has recused himself as he has a financial interest.

Cindy Clements 1585 5000 South, Rexburg. Not opposed to subdivisions, but is opposed to the county not following the law.

Mark Taylor, 1401 West 5000 South, Rexburg. Would like to have been informed of the hearings and development. His home is out of the required notice area, but it would be nice to know as it affects him. He states you can't have any development on the public open space.

Christopher Wilson, 1311 W 5000 South, Rexburg. This decision changes what happens for the rest of the county.

Reese Butikofer, Rexburg. Didn't want to come forward, but agrees with what has been said.

We appreciate those that have spoken.

Bradley was asked to comment. He is very confident this development follows code. There is nothing new in what we have heard already. Code has been followed as to how the road was designed. Code states the P & Z Commission may improve and make modifications to the plan. There is a canal to the west and another subdivision. A canal on the north side prevented a stub road. Development to the north should go to the highway and have a connector road to the east on 5000 S. for the safety of that road, the best thing to do was to divide it up and the fire dept. concurred, even though they did not need to.

Open space types were discussed and Bradley said it is separated out on the plat map. Community open space keeps the ownership private. This will be owned by the homeowners and nothing says it has to be kept private. A question was asked, If the zoning rules change can they sell off? Bradley answered yes. It is put into the plan so anyone buying in the park could be sold as lots if the zoning laws allow, but right now, the law does not allow.

The question was asked by Commissioners, How do you answer the concern of common space in each of the lots in the front and the back of each lot? Bradley answers, that is the natural open space and community open space are two different things. A fence does not block open space. Corey said in natural open space a driveway cannot be built, they would have to separate a space for every driveway and has to be made available for residents or the public.

Megan Anderson said Section 115-54 of Madison County Code states natural open space need not be open to direct public access. Natural open space is different from community open space. The natural open space is identified on the plat map and will be maintained by the individual lot owners. The homeowners association will manage the community open space. The Kristen Ruebush expressed concern about individual lot owners maintaining the natural open space and felt that it should be owned and managed by the home owner association.

The Ruebush's concerns over the road accesses and protecting the grid system were addressed by Bradley. The adjustments were made at the request of Road and Bridge, and the fire department. Section 115-57 allows for adjustments to accesses if deemed necessary. Bradley said: we do our best to protect the grid system, but knowing what was surrounding it, this is the best decision based on canals and other items in this area. Brent read the code and if there is a reason and if R & B has a reason to put the roads where they can get around with equipment and safety – code is a generally established guideline. Kristen Ruebush expressed that any adjustments to the standard road requirements should be listed in the application with an explanation.

Eric Miller--He sits on the P & Z Commission. His question is are the P & Z meeting minutes which discuss this, not documentation of why there was an exception made? The answer was yes, they are.

Commissioner Weber states, as a commissioner these are the tough decisions that have to be made. It is good to hear opinions on the areas before them. The open space should be looked at. Troy stated this can be approved, disapproved, sent back to P & Z, or table it.

After review and discussion, Commissioner Mendenhall made a motion to approve the final plat for Nordic Ridge Estates. Based on the fact that we did the preliminary plat. Commissioners feel that there is work to be done to watch this very closely for open space. Commissioner Weber seconded and voting was unanimous. The motion passed.

The public hearing was closed by Commissioner Weber at 11:15.

Cindy Roberson, Right of way issues:

Cindy asked what Commissioners would like to do with a few issues of hinderances to snow plows in county easements such as: sprinkler heads, trees, shrubs, grass, mailboxes, fences, cars, people pushing snow across the road then freezes. Are we governing too much? Homes plant grass up to the roads because it looks nicer. Citizens feel they pay taxes to the center of the road, but the county has an easement and are obligated to plow. Commissioner Weber states that 99% of the mailboxes are in the easement and the Post Office will not allow us to change that. Altogether, the county spends approximately \$10,000/year. A picture was shown of a cement driveway going right to the edge of the property with a raised lip where it meets the road. Commissioners don't feel we can control these issues and it may be worth it to pay for the damages.

Cindy informed the Commissioners of an issue between neighbors at the west side frontage road site, where there is a sliver of ground, needed to complete the road. Mr. Bowen was told when the grant was approved they would have to tie in at a certain angle. They are aware at this point that it is not right.

Jared Arnold, Replacement of ramp connecting to the east jail:

Jared reported on his plan to repair the entry on a sidewalk between the men's and women's jail. He has a contractor who will prep the sidewalk and he will weld a metal ramp with an eyebrow above. He estimates the project cost to be around \$10,000, but would last for years.

There being no further business Commissioner Mendenhall made a motion to adjourn the meeting at 12:35 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