

*****Monday, December 13, 2021, at 9:00 a.m.,** Commissioners met in regular session with Chairman Dan Dinning, Commissioner Wally Cossairt, Commissioner Tim Bertling, Clerk Glenda Poston, and Deputy Clerk Michelle Rohrwasser.

Commissioners gave the opening invocation and said the Pledge of Allegiance.

Marty Martinez joined the meeting.

9:00 a.m., Road and Bridge Department Co-Superintendent Randy Morris joined the meeting to give the departmental report. A written report was provided.

Mr. Morris said crews are working on mulching on Turner Hill Road, but only if the road is not too slick. Road and Bridge is also doing brushing and cleaning on Deep Creek Loop last week from Cottonwood Road south. Work will be done to the first bridge going up Ruby Creek Road. Crews are running the sand truck on various roads that are slick and Road and Bridge is also doing normal sign work and pothole patching.

Bill Martin, Karen Martin and Steve Fioravanti joined the meeting.

Commissioner Cossairt moved to sign the U.S. Department of Transportation Federal Highway Administration Funds Transfer Agreement #69056718K500010, Amendment #2 for the Riverside Road improvement Project to extend the period performance to December 31, 2023. Commissioner Bertling second. Motion passed unanimously.

Commissioner Cossairt moved to sign the two Memorandums of Understanding with the Boundary County School District subject to County Civil Attorney review and approval as it pertains to the Naples Elementary School Pedestrian Safety Improvements. Commissioner Bertling second. Motion passed unanimously.

Mr. Morris asked about employees using vacation time before the end of the year.

Gregory Lamberty joined the meeting at 9:13 a.m.

Mr. Morris asked about the ability to use inmate labor for minimal work around the Road and Bridge shop, such as clean up, etc.

The meeting with Mr. Morris ended at 9:15 a.m.

Ms. Martin said she wanted to meet to inquire about the status of American Rescue Plan Act (ARPA) funds. Chairman Dinning said Commissioners are not doing anything with the funds. Chairman Dinning informed those present of the Committee on Federalism that Representative Sage Dixon is on and they're looking into the mandates. There are also some state individuals who have made some statements and voiced concerns at a meeting. Chairman Dinning said until Commissioners find out what the State of Idaho is going to do, the county is going to sit still. If it's good enough for the State of Idaho and constitutional officers feel it's appropriate for them to accept ARPA funds, why would it not be appropriate for the county. Ms. Martin said she appreciates that and she added that she would like to share what people are saying; not the legislators. Ms. Martin said she has not spoken to Representative Dixon. People in Kootenai County are not happy. It would be better if the legislators would have a town

hall meeting. Ms. Martin said the people here have been meeting to keep their rights. Ms. Martin spoke of having reviewed the bill and she commented that there are some sections that really came to the surface and went deeper, and she referenced talk about monitoring social media. Ms. Martin mentioned vaccine confidence activities and changing it and she added that the sole goal is to find non-compliance and dissidents and silence that whole voice, and this is in the bill. This is different than the Coronavirus Aid, Relief and Economic Security (CARES) Act. There are tasks that are allocated, there is quarantine, health enforcements, and mobilizing units for vaccines. The Committee on Federalism does look at this issue, according to Chairman Dinning. Ms. Martin asked if Commissioners could help them set up a meeting. Commissioners said they're waiting to see what is going on legally and the legislators won't be in session until January. Ms. Martin said January is the deadline. Chairman Dinning clarified that Boundary County has until January, and he added that Commissioners have a responsibility to Boundary County, so until the county has guidance, Commissioners will spend nothing. Ms. Martin said there is still the request from Boundary Ambulance Service Chief Jeff Lindsey for funding. Chairman Dinning said when the information is fully vetted, then Commissioners will make a decision. Ms. Martin said she wants to help Commissioners make the right decision. Chairman Dinning questioned if Ms. Martin is saying the right decision is what she thinks the right decision is. Ms. Martin said if people and legislators come together, then that's how it works, but if it is just legislators wanting money, then we're getting further and further under federal control. Chairman Dinning suggested Ms. Martin set up a meeting with Representative Dixon and make him aware of what information she has found. The Committee on Federalism has found enough concern and state representatives have addressed some of those concerns. Ms. Martin asked if she's hearing that Commissioners don't want to learn about what is in the bill. Chairman Dinning said he's not saying that, and he doesn't want to be used as an activist against this. Commissioners are just waiting until they learn more information.

Chairman Dinning questioned it being too early to address all of these issues when Commissioners don't yet have all of the information and the county is not spending any money until Commissioners learn the answers to the concerns. Mr. Fioravanti asked if a decision is going to be made before hearing from the public view. Chairman Dinning said in hearing about holding a public forum and there is screaming and yelling, Commissioners are not going to do that unless it's going to be respectful discussion. Chairman Dinning said this would be good for Representative Dixon. Ms. Martin said they went to Boise when Representative Priscilla Giddings went up for censure for vaccines and taxpayers spent over \$300,000.00 for a political move. Ms. Martin said when Commissioners say that legislators are working to learn about this, she doesn't have a lot of faith right now in legislators and in spending "our" money. Ms. Martin spoke of vaccine related issues and she said it is time for people to say we've had enough. Ms. Martin said she doesn't have faith in Representative Dixon as he's not her voice and she sees eye to eye with Representative Heather Scott. Chairman Dinning said Representative Dixon is our representative now so he is our voice.

Chairman Dinning asked what counties have sent the ARPA funds back. Ms. Martin said she doesn't know yet as they're doing the same thing. With everything that's happening in America, she's trying to help counties and say we've had enough with interference and we're not going to take this money. Commissioners have that right and they don't need Representative Dixon and Boise, according to Ms. Martin. Chairman Dinning said if the Idaho legislature and the State of Idaho feel it's appropriate and legal and there are strings that are not as stringent as what is feared, and the state feels this is good for the residents of the State of Idaho, which Boundary County is a political subdivision of the State of Idaho, then why is this not good enough for the county's citizens. That is what the Commissioners are looking at. Mr. Fioravanti said this is a county issue. Chairman Dinning said that's correct, but if it's good enough for the State of Idaho, isn't it good enough to wait and see what information comes out.

Mr. Martin gave an analogy and said, if someone is walking down the street and shooting holes in the doors of houses with a gun, why wait until the shooter gets to your door before doing something. Chairman Dinning said that is not even a close analogy. Chairman Dinning said there are already cases in court pertaining to mandates, hospitals, and mandates for businesses, so those are the things that will play out. At this point, it doesn't hurt the county to sit still, according to Chairman Dinning. Ms. Martin said it doesn't hurt to sit still, but why listen to the legislature attorneys. The executive orders cost money every time they're challenged. We have the CARES Act so why do we need ARPA funds. Ms. Martin mentioned biological warfare and she said this makes her look like a conspiracy theorist, but there is talk about lack of evidence and there being evidence that COVID-19 is an attack on the world. Ms. Martin questioned when do we stop playing this game and with the ARPA bill, we have a good responsibility to say this is enough. We can recover as a community and not take toxic federal money. It doesn't perpetuate our plan; it perpetuates the federal government's plan. Ms. Martin said to please hear our voices and hear that we don't want to play this game anymore. Mr. Martin said they see a freight train coming for us and there is a boat load of gold in the back of it. Do we get out of the way or not? When you read the bill; stop this now. Ms. Martin said everything that the US Treasury put in the bill is ridiculous and dangerous and we don't need an attorney to tell us as it's common sense.

Commissioner Bertling addressed the Martins and said Commissioners can't give a rebuttal as they have not even read the information that was just given to them.

Chairman Dinning said this topic is on their meeting agenda every week in the event new information is learned.

9:53 a.m., Mr. and Ms. Martin and Mr. Fioravanti left the meeting.

Commissioner Cossairt moved to sign the Annual Road and Street Financial Report for fiscal year ending September 30, 2021. Commissioner Bertling second. Motion passed unanimously.

Commissioner Cossairt moved to sign the Property Tax Cancellation form for tax year 2021 and to cancel taxes in the amount of \$1,372.22 for parcel #RPB0160001008HA as the homeowner's exemption was received after the July abstract cutoff. Commissioner Bertling second. Motion passed unanimously.

Commissioner Cossairt moved to sign the Property Tax Cancellation form for tax year 2021 and to cancel taxes in the amount of \$609.78 for parcel #RP61N03E151210A as the homeowner's exemption was received after the July abstract cutoff. Commissioner Bertling second. Motion passed unanimously.

Commissioner Cossairt moved to sign the Property Tax Cancellation form for tax year 2021 and to cancel taxes in the amount of \$443.30 for parcel #RP63N02E141210A as the homeowner's exemption was received after the July abstract cutoff. Commissioner Bertling second. Motion passed unanimously.

Commissioner Cossairt moved to sign Certificates of Residency for Braylyn Bayer, Judah White, Trew Lammers, and Brodie Becker. Commissioner Bertling second. Motion passed unanimously.

Chairman Dinning stated that newly appointed Hospital Board of Trustees member Lisa Iverson needed to withdraw from the Hospital Board so Commissioners have accepted her resignation. No motion is needed.

Chairman Dinning discussed the issue of Labrosse Hill Road. Chairman Dinning said the county can have prescriptive use and have a truck turnaround so Commissioners will need to hold a public hearing to address this.

Commissioners reviewed claims for payment. Fund totals are as follows:

Current Expense	\$ 109,087.67
Road & Bridge	73,012.10
Airport	4,396.80
District Court	7,506.70
Justice Fund	105,970.19
911 Funds	4,725.52
Indigent & Charity	15,036.68
Junior College Tuition	150.00
Parks and Recreation	3,681.12
Revaluation	387.55
Solid Waste	28,133.75
Veterans Memorial	1,233.61
Weeds	10,345.43
Restorium	17,153.45
Snowmobile	5,000.00
Waterways	3,247.10
Grant, Airport	26,241.51
Grant, Selkirk Coop Weed Mgmt	2,646.25
Juvenile Probation – Lottery	80.00
Grant, Boat Safety	2,383.51
Grant, Emergency Communication	13,037.55
TOTAL	\$433,456.49
Trusts	
Boundary County Drug Court	342.23
Driver’s License Trust	8,956.50
Motor Vehicle Trust	207,490.59
Sheriff’s Trust Fund	274.05
Odyssey Court Trust Account	18,023.05
Odyssey Bond Trust Account	450.00
TOTAL	\$235,536.42
GRAND TOTAL	\$668,992.91

Citizens are invited to inspect detailed records on file in the Courthouse (individual claims & Commissioners’ allowance & warrant register record 2021-2022).

Commissioners tended to administrative duties.

10:30 a.m., Commissioners considered the application renewals for the local alcoholic beverage licenses. For year 2021. Present were: Chairman Dan Dinning, Commissioner Wally Cossairt, Commissioner Tim

Bertling, Clerk Glenda Poston, Deputy Clerk Michelle Rohrwasser, Marty Martinez, and Gregory Lamberty. The meeting was recorded.

Commissioner Cossairt moved to approve the establishments for the Boundary County Alcoholic Beverage License for year 2022 pending receipt of all required documentation and applicable fees as listed in Exhibit A. Commissioner Bertling second. Motion passed unanimously.

“EXHIBIT A”

APPLICATIONS FOR COUNTY ALCOHOLIC BEVERAGE LICENSE FOR YEAR 2022

The following establishments are to be approved for the Boundary County Alcoholic Beverage License for year 2022 pending receipt of all required documentation and applicable fees.

Badger’s Den, Blue Lake RV & Resort, Bonners Ferry Pupuseria, Bonners Ferry Conoco, Carriage House Inn, Eagles Aerie #3522, Feist Creek Falls Resort, The Great Northwest Territories Event Center, Grocery Outlet of Bonners Ferry, Heart Rock Wines/Crosstime Saloon, Jack’s Club, Jake’s Retreat, Jake’s Small Mart, Kootenai River Brewing Co., Kootenai River Casino & Spa, Lane 9, Mi Pueblo, Mirror Lake Golf Course, The Moyie Store, Mugsy’s Tavern and Grill, Naples General Store, Nom Nom, Northwoods Tavern, The Pearl Theater, Bonners Ferry Pizza Factory, Rusty Moose Tavern & Grill/Goat Mountain Pizzeria, Safeway, Sam’s Stop & Shop, South Hill Qwik Stop, Super 1 Foods, Tavern in the Lodge, Three Mile Store, Two Tones Café, Under the Sun.

The meeting to consider Boundary County Alcoholic Beverage Licenses for year 2022 ended at 10:31 a.m.

Commissioners tended to administrative duties.

11:00 a.m., Commissioners held a public hearing to consider Variance Application #1-2022. A variance to Boundary County Road Standards Ordinance 2020-2 as it pertains to an extra approach, requested by applicants Archibald-Majors. Present were: Present were: Chairman Dan Dinning, Commissioner Wally Cossairt, Commissioner Tim Bertling, Clerk Glenda Poston, Deputy Clerk Michelle Rohrwasser, and Marty Martinez. The hearing was recorded. Chairman Dinning stated for the record that information for the hearing is not ready and the hearing needs to be continued.

Commissioner Bertling moved to continue the public hearing to consider Variance Application #1-2022, a variance to Road Standards Ordinance 2020-2 to Tuesday, December 21, 2021, at 11:00 a.m. at the County Annex. Commissioner Cossairt second. Motion passed unanimously.

Commissioner Cossairt stated that he is executor of an estate for a property neighboring this subject property and he will abstain from making any decisions in the hearing.

The hearing ended at 11:01 a.m.

Commissioners tended to administrative duties.

11:26 a.m., Commissioners contacted County Civil Attorney Tevis Hull via telephone.

Chairman Dinning discussed the proposed abandonment of Labrosse Hill Road with Attorney Hull. Chairman Dinning said the property at the end on Labrosse Hill Road needs access. County Road and Bridge drives up and turns around at or near this property and Chairman Dinning said he believes the county has maintained this road long enough to have a prescriptive right-of-way if Commissioners want to go through that process. Attorney Hull said it's a 20-year process to have a prescriptive right-of-way. It was said that Boundary County has continued going up this road and maintaining it. Research has been done by a surveyor and comments were made about where the road ends. Those present discussed the location of the road. Attorney Hull wanted to know where the original abandonment ended and if the county has been driving past that point since then, which would cause the county to have a prescriptive right at minimum. Attorney Hull said he would visit with Road and Bridge Department Co-Superintendent Renee Nelson about that.

Chairman Dinning asked about the request made by Curley Creek Fire Department board members for the county to plow snow so they can access their fire station. Attorney Hull said this discussion came up last week and Commissioners were considering plowing the station on an emergency basis only, not every time it snows. Commissioners felt it would be dependent on the amount of snow. Attorney Hull said Curley Creek Fire Department board members do need to obtain signatures from all of the property owners along that route to make sure everyone is on board, but there also needs to be general parameters as to when snow plowing would be done so it's not a mandatory thing.

Commissioners stated they will need to discuss the abandonment process of a county road as requested by a resident and they would like to receive written instruction from Attorney Hull addressed to the property owner listing what the property owner needs to provide, such as a survey and a surveyed area for a turn-around, public hearing costs, etc.

The call to Attorney Hull ended at 11:40 a.m.

11:43 a.m., Commissioners discussed fees associated with Planning and Zoning applications. Commissioners feel the current fee structure is not compensating the work involved. Last year Commissioners increased these application fees half the amount that had originally been proposed.

Commissioners recessed for lunch at 11:50 a.m.

1:00 p.m., Commissioners reconvened for the afternoon with Chairman Dan Dinning, Commissioner Wally Cossairt, Commissioner Tim Bertling, Clerk Glenda Poston, and Deputy Clerk Michelle Rohrwasser.

1:00 p.m., Commissioners and Clerk Poston met at the County Annex conference room to participate in the All-Hazard Mitigation Plan update kick-off meeting. The meeting ended at approximately 2:30 p.m.

There being no further business, the meetings recessed until tomorrow at 10:30 a.m.

*****Tuesday, December 14, 2021, at 10:30 a.m.,** Commissioners met in regular session with Commissioner Wally Cossairt, Commissioner Tim Bertling, Clerk Glenda Poston, and Deputy Clerk Michelle Rohrwasser. Chairman Dan Dinning was temporarily out of the office.

Commissioner Bertling moved to appoint Commissioner Wally Cossairt acting chairman in the absence of Chairman Dan Dinning. Commissioner Cossairt second. Motion passed unanimously.

Commissioner Bertling moved to authorize the Chairman to sign the Service Contract with Security Patrol Services. Acting Chairman Cossairt yielded the chair to second. Motion passed unanimously.

Chairman Dinning returned to the meeting.

Commissioners tended to administrative duties.

11:00 a.m., Assistant Restorium Administrator Diana Lane joined the meeting to give a department report.

Ms. Lane informed Commissioners that the Restorium has 20 residents and they've had three inquiries this morning. Clerk Poston asked if Ms. Lane could check on the number of gowns they have at the Restorium as well as medication cups. Ms. Lane said Super 1 has hand sanitizer that they've been unable to sell that they would like to donate to the Restorium. As far as COVID-19 related illness, Restorium staff are doing well, according to Ms. Lane. Commissioners talked about offering counseling services to staff as a result of COVID-19 and losing residents due to illness. Commissioners asked Ms. Lane about her ability to study for her administrator's license. Ms. Lane said she was going through the course, but hasn't been able to lately. Commissioners discussed covering the cost of extra hours to allow Ms. Lane to resume obtaining her administrator's license, etc.

The meeting with Ms. Lane ended at 11:15 a.m.

11:30 a.m., Assessor Dave Ryals and Treasurer Sue Larson joined the meeting.

Treasurer Larson met with Commissioners to discuss a matter pertaining to the State of Idaho Parks and Recreation wanting access to a county account. Treasurer Larson said the State of Idaho Department of Parks and Recreation wants to do an electronic funds transfer for funds owed to them and she is not comfortable with providing that access as they will set the amount of funds and take them out. Treasurer Larson said her office does do electronic funds transfers with the Internal Revenue Service (IRS), but that is something the Treasurer's Office sets up and nothing is taken out of the county account without her office arranging that. Treasurer Larson said she's in the process of getting more opinions from other counties about this. If the State of Idaho Department of Parks and Recreation want funds transferred into their account, the Treasurer's Office can initiate an automated clearing house (ACH). The State Tax Commission wants over \$100,000.00 in an ACH. The Tax Commission is not even setting up this process. Treasurer Larson said the process to set this up is supposed to be done by December 20th and the program would be activated in the spring. It's not talking about a lot of money, but this gives someone access to the county account, according to Treasurer Larson. Commissioner Bertling said he doesn't like electronic funds transfers either.

The meeting with Treasurer Larson and Assessor Ryals ended at 11:44 a.m.

11:50 a.m., Commissioners received a telephone call from Restorium Maintenance person Squire Fields who informed them the vehicle used by the Restorium to take residents to doctor's appointments is no longer in working condition and there is an opportunity to purchase a small SUV crossover. Mr. Fields mentioned looking for a good priced vehicle and Dyck's Oil and Auto has a car for sale at a cost of \$5,000.00. Mr. Fields said the Friends of the Restorium is going to meet to discuss this vehicle and if they can purchase it, they will donate it to the county and the county can license the vehicle and get it on the county inventory list.

Commissioners stated they were in favor of the purchase of the vehicle and they stated if the Friends of the Restorium is unable to purchase it, the Commissioners can purchase it.

The call to Mr. Fields ended at 11:53 a.m.

Commissioners recessed for lunch.

1:30 p.m., Commissioners reconvened for the afternoon session at the County Annex with Chairman Dan Dinning, Commissioner Wally Cossairt, Commissioner Tim Bertling, Clerk Glenda Poston, and Deputy Clerk Michelle Rohrwasser.

1:30 p.m., Commissioners held a public hearing to consider Planning and Zoning Application #22-0018. This is an application for a short plat-rural requested by Applicants Craig and Elaine Wheatley. Present were: Chairman Dan Dinning, Commissioner Wally Cossairt, Commissioner Tim Bertling, Clerk Glenda Poston, Deputy Clerk Michelle Rohrwasser, Planning and Zoning Administrator Clare Marley, Planning and Zoning Assistant Tessa Vogel, Applicants Craig and Elaine Wheatley, Janna Stanford, Karen Glazier, Remington Daniels, Doug Higgins, Lowell Graber, Jim Dyck, Tom Mackey, Calvin Dyck, Len Pine, Travis Wisberg, Tim Fulton, Jr., and two unidentified members of the public. The hearing was recorded.

Chairman Dinning reviewed the public hearing procedures. Nobody had any questions and Commissioners cited no conflict of interest.

Commissioners opened the hearing and asked the applicant for an opening statement. Mr. Wheatley said that he has property on Homestead Loop and it's in a 5-acre zone. It was clarified that prior to purchasing the property, Mr. Wheatley had information that the property was in a five-acre district. JRS Surveying had provided the preliminary plat. A PowerPoint was shown of the lot configuration and Commissioner Bertling asked what the different colors shown for the parcels represents. Mr. Wheatley explained that a ravine behind the property runs to the west and he needed the parcels touching the road and this satisfied the requirement of the Three Mile Water District for the five acres to have water without getting into the ravine. There is no length/width requirement for the lots, just the acreage requirement. This also meets the requirement for county road frontage. Mr. Wheatley said he's not happy to have so many thin parcels, but it meets requirement. Mr. Wheatley added that JRS Surveying is listed as his representative, but they're not as they just did the survey. The packet indicates no commitment for water or electric so it's up to the purchaser if they want to have Northern Lights power or solar, etc. Chairman Dinning said he understands that according to Three Mile Water District, Mr. Wheatley can't make a 60-foot easement to run right down the middle of the lots, but the Water District states that each lot has to touch the county road. Mr. Wheatley commented that he has not met with the Water District, but he's hoping that if he showed them the plots that he has, he would prevail and not have convoluted lots. Mr. Wheatley mentioned that he's reviewed the Water District's requirements, but he's not aware if they have any type of process for a variation. Chairman Dinning said in the report it says there are two, 20-acre lots. Mr. Wheatley mentioned he purchased 40-acre lot and split it into two 20-acre lots. Mr. Wheatley said when he spoke to former Planning and Zoning Administrator John Moss, he learned the subsequent owners could continue to divide the property. Mr. Moss told Mr. Wheatley that if he sold the 20-acre lot, the next property owner could divide those lots into two 10-acre lots and if they sold again, the next owner could split the lots into two five-acre lots. Those present mentioned the 60-foot easement. Mr. Wheatley said it makes more sense to run the easement right down the middle and not have the slim lots, but he's just working on what the rules are as opposed to what the common-sense answer would be.

Assistant Land Use Planner Tessa Vogel provided a staff report. The application is for a short plat for seven proposed lots. Ms. Vogel showed an aerial view of the subject location. Homestead Loop is a county road. A slide was presented showing the preliminary plat with the proposed layout of the lots. Information on the application was sent to the public and various agencies and comments were received from the Panhandle Health District and the County Mapping Department. The county mapper provided a comment about the final plat being recorded and entered into the Assessor's record. There is no permit for septic approval at this time. Pages 4-5 of the staff report pertain to the analysis. Ms. Vogel also referred to the draft findings and conclusion and conditions of approval for discussion, etc.

Ms. Vogel stated that the long strips along the back of the lots are not able to be common open space, even by easement, as they are private property. So, those areas are either common open space or private. If the long strips along the back are common/open space, then that property is taken out of the property size, which would put the parcels under lot size. You can do this type of design as long as the lots have the zoning acreage, according to Ms. Vogel.

Chairman Dinning asked about Mr. Wheatley commenting about the common area and Ms. Vogel mentioned this area is either common ground or private. Chairman Dinning said if you take lot 5 and the extension of lot 5 to the west, if that extended area was moved up, would it create another lot of five acres shown in the yellow color? Ms. Marley said the Land Use Ordinance is silent on design. Ms. Marley added that she knows that Ms. Vogel met with Three Mile Water District and hoped they felt easements would be the way to go. If that was approved, that design would've been presented to Commissioners as this option proposed is not the best use of the land.

Commissioners opened the hearing to public testimony and asked for comments in favor of the application. No one spoke. Speaking uncommitted was Karen Glazier, 206 Red Cloud Road. Ms. Glazier spoke of having been on the board for Cabinet Mountain Water District and she mentioned being astonished in looking at the parcel layout. Ms. Glazier said if the Three Mile Water District hasn't seen this information, it would cause a fair amount of concern. If having a main water line running down the middle of the property is not allowed to happen, then there will be spaghetti lines back to different lots. When people are digging for gas lines, etc., that could cause big issues concerning 811, call before you dig, by having non-standard shaped parcels and having no clearly marked lines. Ms. Glazier expressed concern about fire protection and getting fire engines back to the lots. The sharp turns are needed and it's not easy access and the easements are not very wide. Property owners don't have to provide access and people can't pass each other without trespassing. Through the short plat process, it was thought it's the requirement of one split per application, so when the property goes from 40-acres to two, 20-acre parcels, in looking at this it's not a precedent we want to set. As we continue to grow, this is not a very rational, according to Ms. Glazier.

Len Pine, 1283 Homestead Loop, said he lives kitty corner to the subject property. Mr. Pine said he shares the many concerns that Ms. Glazier mentioned including the fire perspective concerns. Mr. Pine said he is on the City of Bonners Ferry Fire Department and he works with North Bench Fire Department so that is on his mind. Mr. Pine said his wife works in estate planning and he is trying to figure this application out. This is going to be a nightmare for someone if they have to sell a lot through an estate. Mr. Pine said he appreciates Mr. Wheatley's predicament with Three Mile Water District, which is more restrictive than it should be, and he added that he hopes the commission looks at the water issue and access for emergency services. Mr. Pine mentioned having spoken to the surveyor and learning that Three Mile Water District is not expanding their permits beyond this until infrastructure is improved. On Homestead Loop there had been a broken water line and it did get fixed, but it highlights the need for

access and line protection. He thought there was one single road that runs down the middle of the lots, but the road is not following easements and going straight down the middle.

Travis Wisberg, resident on Homestead Loop, said he's not opposed, but the gymnastics Mr. Wheatley has to go through to divide the property is silly.

Speaking in opposition was Tom Mackey, 1705 Homestead Loop. Mr. Mackey said he's lived at his residence for many years and when he first saw this parcel division he thought it looked like a puzzle, and he understands why Mr. Wheatley had to do this. Water is his primary concern with sediment, etc. Mr. Mackey said he needs to clean his water system's screen out once per week and you used to not have to do that. Water is the biggest concern. Mr. Mackey spoke of ownership and he said he hopes a good surveyor was involved, and fencing, as it could be a big nightmare. The amount of traffic these last few years is unbelievable.

Jesse Stafford, Cow Creek Road said a lot of opposition just stems from a lot of the county's ordinance and zoning not really being designed to handle this and he questioned if we need to take a step back. Mr. Stafford spoke of trying to add value to his land and thinking ahead for water, etc., and he said the real question is if this subdivision can be reconsidered as it will be tough to push back if we start allowing this.

Remington Daniels said he's opposed to this in general. This is a timber and agricultural area and that is our life blood. If five acre lots are allowed, timber and agriculture will be depleted. For people who need hay for animals, where are they going to get it if we keep chunking up the ground. Mr. Daniels said we need to take that into consideration. Money is not everything.

Commissioner Bertling said he would agree, but unfortunately with this, this is one we cannot do anything about, as it is zoned to allow for five acres. If this property had been zoned something else, then yes. Mr. Daniels said this is just something to look at ahead of time.

No one else from the public provided testimony and Commissioners closed the hearing to public comment.

Mr. Wheatley provided closing statements and said the colored lines don't reflect any driveway, but the 60-foot driveway runs down the middle and it's just to conform with Three Mile Water District's requirement that the parcels touch the road. The easement is 60 feet for ambulance, fire trucks, etc. Mr. Wheatley said assuming everyone is going to build a house, Northern Lights utilities are based on the easement. Northern Lights would probably just run one line down the center. Electricity also would not follow the colored accesses. The common acreage is not in the sense that it is not owned by someone as each person would own their own space. Chairman Dinning said if he bought lot 3 and it includes the upper portion shown in yellow, are there any conditions to other people. It's not allowing access to others. Mr. Wheatley said to strike the word "common area" as it's up to the owner. Ms. Marley said she thinks the term is open space. It was said that the road has minimal traffic now. Mr. Wheatley said he understands the concern regarding Three Mile Water District. Utilities will be left up the property owners. Mr. Wheatley added that he agrees with the county being in a state of growth. The problem is that everyone agrees that nobody wants a house built next to their house. It's up to that property owner to do what's best with the land. This is a five-acre zone and he's complied with that. Mr. Wheatley spoke of this plat meeting the criteria for five acres and that the agencies haven't had objections. Mr. Wheatley said he would also like to see no development in the county, but he would propose and

reluctantly approve this application as it does meet criteria. Chairman Dinning asked Mr. Wheatley if he would want to hold off until he could meet with the Three Mile Water District's Board. Mr. Wheatley said no, and he added that it's his intention to meet with Three Mile Water District about not having each lot touch the road. Commissioner Bertling said this brings to light something that needs to be changed. He agrees that this division looks a puzzle, but Mr. Wheatley is in compliance.

Commissioners closed the hearing to additional testimony and called for discussion amongst themselves. Commissioner Bertling said Mr. Wheatley has met all requirements and he pointed out what needs to change. Mr. Wheatley got creative and hopefully the Three Mile Water District uses common sense for the main line. Commissioner Cossairt agrees the division is very creative and it does meet requirements. Chairman Dinning clarified that the county has no authority over private roads; only county roads or what's approved in the county right-of-way. Chairman Dinning said he likes to go with private property rights. Chairman Dinning spoke of needing updates to the county's Comprehensive Plan and he said the comprehensive plan looked fine, but then the explosion of growth hit. What we're seeing today is totally allowable by the ordinance and we may not like it, but it's allowable. The division would look a lot different if Mr. Wheatley can work something out with Three Mile Water District. Chairman Dinning said the application does meet the Comprehensive Plan and the Land Use Ordinance.

Commissioner Cossairt moved to approve the preliminary plat for Planning and Zoning Application #22-0018 for Craig and Elaine Wheatley. Commissioner Bertling second. Motion passed unanimously.

The hearing to consider Planning and Zoning Application #22-0018 ended at 2:20 p.m.

2:30 p.m., Commissioners held a public hearing to consider Planning and Zoning Application #22-0224. This is an application for a comprehensive plan and zone map amendment requested by Byler Building Supply. Present were: Chairman Dan Dinning, Commissioner Wally Cossairt, Commissioner Tim Bertling, Clerk Glenda Poston, Deputy Clerk Michelle Rohrwasser, Planning and Zoning Administrator Clare Marley, Planning and Zoning Assistant Tessa Vogel, Rob Wenzel, Ben Apo, Bryan Morgan, Linda McClure, Joe McClure, Sherry Butcher, Dan Butcher, Travis Wisberg, Hillary Cusano, Tim Fulton, Adam Isaac, Kendra Graber, Lowell Graber, Kathy Wenzel, Tim Dougherty, Jeremy Garrett, Jonathan Wilkins, Daryl Wilkins, Ryan Johnson with the Panhandle Health District, Doug Higgins, Chad Iacolucci, Mike Krejci, Dathan Senn, Jim Dyck, Jenni Dougherty, and other unidentified members of the public. The hearing was recorded.

Chairman Dinning reviewed the public hearing procedures. Commissioners said they had no conflict of interest. Chairman Dinning stated for the record that someone had contacted him, but it was only about the process and nothing else.

Commissioners opened the hearing and asked the applicant for an opening statement. Lowell Graber, representing Byler Building Supply, provided a statement and explained that he's still in the process of purchasing the subject property from Edd Byler of Byler Building Supply so that is why the application doesn't list his name, but he is the applicant. Mr. Graber provided a background on his purchase of the property in that he had approached Mr. Byler to see if he had property for sale. Mr. Byler had property on Smith Lake Road, but he was not wanting to sell at time, but later he reconsidered. Mr. Byler looked into different ways to split the property and he basically used the 20-acre exemption. The property can be split as long as it was only one time. There were 100 acres and the property was split into five, 20-acre parcels. Mr. Graber said the Bylers are trying to help him out. Mr. Graber said he is disappointed about what he has seen on social media as they were untruths.

Mr. Graber said his hope was to be able to break the property into smaller pieces for his family or children, but possibly to also sell some. Mr. Graber added that he learned of the 20-acre process and the steps to do a short plat and he's here to hopefully get an approval. Mr. Graber said they've built a home on the property, close to the middle and off of the new road, Legacy Ridge Lane. Mr. Graber commented that there had been discussion as to whether or not this application fit the Comprehensive Plan. Planning and Zoning's decision was to not approve the rezone based upon road access and also water availability. There is a good road and a picture of the intersection at Smith Lake Road and Legacy Ridge Lane was shown as well as slides showing just Smith Lake Road. It is three-tenths of a mile from Highway 95 to Legacy Ridge Lane. The concern was traffic and if the road could handle it. Road and Bridge had scheduled to widen the road, according to Mr. Graber. Slides two and three show that section of the road and the gravel.

Mr. Graber said other reasons he feels the application should be approved is that across the road and kitty corner is the Fairchild property and that was approved as a five-acre rural residential. The Studer property also has a parcel that is smaller than 10 acres. Mr. Graber mentioned that there had been a prior application for the last name of Weakly for property on the upper Old Addie Road that was approved for a rural residential rezone.

Water is a concern, according to Mr. Graber, who added that the last thing he would want to do is to cause someone's well go dry. The neighbor to the north has a well with a dropping recovery rate, but that was occurring before he was involved. Nearby well information was discussed. Mr. Graber commented that he had spoken to Ed Minden and water is a tough thing to call as it's in granite. In Mr. Minden's opinion, this would not affect others, according Mr. Graber. Mr. Minden had said that what can happen over time is it seems that water runs in and it can mineralize and it will need to be shocked to get more water flowing. Mr. Graber said he doesn't know if that will help neighbors. Mr. Graber added that he's hoping Bee Line Water Association will be ready to open up memberships in the spring. It was said that the bank needs five gallons per minute in order to offer a mortgage. Mr. Graber said there is artesian water below him.

The property is only three-tenths of a mile from the highway. It's very safe and he's worked with Road and Bridge to get access, widen the road and place gravel. Most complaints were from people who live elsewhere or live further up the road. Mr. Graber said he wants to be on record that for everyone who is opposed, he will not hold it against them. He had no idea that people would be this opposed to his plans as he's not received any comments about this directly. Mr. Graber said he has seen a lot of discussion on Facebook and at the Planning and Zoning Commission hearing, but he's disappointed that nobody approached him. Mr. Graber said he knew the property was in the agriculture/forestry zone when he purchased it.

Tessa Vogel provided a staff report. Ms. Vogel said the proposal is to amend the zone to rural residential on the total of 40 acres. Ms. Vogel showed a vicinity map slide with a breakdown of neighboring properties. The subject property is accessed from the county road to a private road. Ms. Vogel presented slides showing the comprehensive plan land use designation color coded map and the ag/forestry and rural residential zones, the breakdown of the comprehensive plan and zone district designations of surrounding properties and land use types. Ms. Vogel said agency comments were received prior to the Planning and Zoning hearing and were from the County Assessor, Panhandle Health District and County Road and Bridge. Road and Bridge talked about the approach off of Smith Lake Road from Legacy Ridge Lane, but they didn't talk about impacts to Smith Lake Road. It was said that Road and Bridge had planned on attending the hearing, but ended up not being able to. After the hearing on

October 28, 2021, written comment was received from Bee Line Water Association stating that there is no membership availability and they have no plans to open that up. There are plans to apply for a well, but it's not certain what that will do. Ms. Vogel said she hadn't received public comments at the completion of the staff report, but two comments have since come in.

Testimony was heard at the Planning and Zoning Commission hearing from 12 people as well as written statements. All 12 people who commented were opposed. After the Planning and Zoning hearing six written comments were received prior to completing the staff report listing the same concerns at the Planning and Zoning hearing. Two written public comments were received after the staff report listing more of the same concerns. Ms. Vogel reviewed what was included in the staff report and Commissioners' application packet. Pages 8 through 10 of the packet will have the staff analysis and it looks at the sections of the Land Use Ordinance and comprehensive plan. The draft findings and conclusion are on page 11.

Commissioners opened the hearing to public testimony and asked for comments from those in favor, but nobody spoke.

Speaking uncommitted was Adam Isaac. Mr. Isaac clarified that he was speaking as a citizen and he said the time that we're in is crazy and with water, he's seeing the issue with water and infrastructure occurring before development. It's important to see water infrastructure before development and it will reduce heartache down the road with having to find and haul water. Mr. Isaac said with the home prices, he understands what Mr. Graber is doing and he explained that he purchased his first home in year 2013 and he had planned on moving at some point, but now with the current prices he cannot afford to do that. Hard times were faced with going forward in supporting families. From everyone he's talked to, a majority of people who buy in a certain zone don't want to see the zone change. Growth is going to happen. In looking forward, what are we going to do for infrastructure. Mr. Isaac said for the first time, and he's the 5th generation here, he's looking at his son not being able to afford a house and he will have to leave sometime. Mr. Isaac said he hates the water issue and from looking at the comprehensive plan and what the applicant is looking at, if there had been water, it would be a different issue.

Commissioners asked for comments from those opposed to the application.

Coral Studer, 193 Smith Lake Road, spoke in opposition and she clarified that she is the property that is next to the two proposed sites. Ms. Studer reminded those present of what the first few lines of the comprehensive plan state. Ms. Studer mentioned that she thinks the Grabers will be fantastic neighbors. Her concern is that changing the zone will make it easier for more neighbors to rezone their property to create a suburban neighborhood. It's a bad impact to runoff, habitat, etc. To date, Ms. Studer has written letters to the Grabers and Planning and Zoning that this development will have a negative impact to the road and water. She doesn't want to be rezoned rural residential and she spoke of having combined two of her smaller lots. Ms. Studer said she will fight for a rural lifestyle and she is against what this will do individually to Mr. Graber's property and other properties near Smith Lake.

Chad Iacolucci spoke and said that a lot of people moved here because of the 10-acre minimum. Mr. Iacolucci said his well is very deep and he doesn't have to worry. The water issue is being used to not push this application through. Mr. Iacolucci spoke of the road situation and he said the real issue is Bryan Morgan and if he had someone who had 40 acres and wanted to split it, he would be upset so how Mr. Morgan is not even more mad is beyond him. If this application passes, people will start turning

10 acres in to 5 acers and they'll do that 10 times over. This development can't be compared to the Fairchild's property. If this application goes through, a lot of people will be very upset. It's irrelevant if someone lives a mile up the road.

Kathy Wenzel, 1998 Smith Lake Road, said everything about water, infrastructure and fire danger is relevant. Mr. Wenzel spoke of the area being zoned agriculture/forestry and how Mr. Graber knew what the zoning was. When you rezone the bottom of the mountain, rezoning will start to creep up the mountain. Ms. Wenzel said she thinks highly of the Grabers; she's just against the zone change.

Ben Apo, 202 Marydel Lane, said this would set a precedence.

Tim Dougherty, 400 Smith Lake Road, read his comment letter into the record and presented it to Commissioners. Mr. Dougherty said the subject property is adjacent to his property where he's lived for almost 40 years. He has seen changes to properties and changes in uses. Mr. Dougherty said he would like to think he's a good neighbor and that what he does on his property doesn't adversely affect other neighbors and he hopes the same for him. Mr. Dougherty said he has absolutely nothing against Mr. Graber; he's a great man, but he's against this application. There are fundamental inadequacies needed to infrastructure considering what is in place. The term "rural lifestyle" has been used a lot. This is why the comprehensive plan was written with acreage limitations in place and it's probably why the Planning and Zoning Commission denied the application. This application does not represent a rural lifestyle. Concerning infrastructure and in looking at Smith Lake Road, Road and Bridge did put new rock down. Mr. Dougherty referenced pinch points on Smith Lake Road where the road is only approximately 15 feet wide and when it snows, you can't have two cars passing each other. The existing road is 15 feet and that is more apparent during winter. This road needs widened, regardless of this application. Mr. Dougherty said the question becomes if we're to allow development before infrastructure work. Mr. Dougherty spoke of having low water pressure and he said the Bee Line Water Association has a closed water system. This past year, they were one day away from going dry, according to Mr. Dougherty. Commissioners and the Planning and Zoning Commission should know that limitation to Boundary County is and will continue to be water availability. Do you allow building before infrastructure is updated? Mr. Dougherty spoke of the loss of acreage and timber and he said timber has been taken out of the land management objective. In closing, Mr. Dougherty said Commissioners are tasked with keeping Boundary County a place that people love. This subdivision is not the answer.

Jeremy Garrett, 169 Texas Lane, said his biggest concern is his well and he commented that Smith Lake Road is already not maintained properly as it is; it's a sheet of ice. Mr. Garrett spoke of comments made by Minden Water Wells and Universal Well Drilling about where water would be found. Mr. Garrett said he doesn't want to see this area turn into a massive subdivision and if the application is approved, there is large acreage of state land that will be divided, adding that he moved here to get away from subdivisions. Mr. Garrett said he would like to see Boundary County stick with its current zoning.

Bryan Morgan, 439 Smith Lake Road. Mr. Morgan said he has a letter listing key points, to include subsurface water, wildlife, etc. Mr. Morgan said he has noticed water levels drop and it's all related. He has talked with well drillers and has seen water levels change. Mr. Morgan referenced the affluent and runoff and he asked Commissioners to just stick with the current zoning.

Hillary Cusano said it's a slippery slope when rezoning areas and this is an opening for more zoning. Growth is something we can't ignore, but why Smith Lake, it's pristine and it should be kept in its natural environment.

Nobody else spoke in opposition.

Mr. Graber gave a closing statement and said that he doesn't disagree with any of the concerns he has heard, other than he does disagree about there being inadequate water and that the road won't handle the traffic, but that is Commissioners' decision. Mr. Graber said his reason for submitting the application is that he has six kids, most of which were born and raised in Boundary County and he would love for them to live here. There is no place to rent. Mr. Graber explained that he had rented a home for eight years and had an opportunity to purchase from the Bylers.

The hearing was closed to further testimony.

Commissioner Bertling said the fact that we're looking at where this is located is opening up Pandora's box for what is behind it. It goes against his being to agree with this application. Commissioner Cossairt agreed with Commissioner Bertling and he said the smaller parcels follow the highway and once you get off the highway this far, it will just multiply.

Chairman Dinning said people came to Boundary County for what they saw and what they liked. Chairman Dinning said in the early 1970's, you could take the property you own and divide it into three pieces as long as you kept one of the parcels and it didn't say for how long. What you see today is a metamorphosis of the comprehensive plan. Prior to Three Mile Water District, there was no water on the north bench. There was just one small water system so if you wanted water, you would need to drill a well. Then Three Mile Water District came in and faced the same issue. All of those small water systems are full up. Chairman Dinning spoke of doing things right because you like it here, so when we're faced with these issues we want to make sure we're doing something right. It's time to look at the comprehensive plan and Land Use Ordinance again as things have changed from 15 years ago so please be patient with Commissioners as we face these issues and try to make decisions that are best. It's not about what Mr. Graber or what he wants to do; it's about the zone map and it says this zone is agriculture/forestry. That is what that area was intended to be when going through the process. If it's time to take a look at updates, then that is what we should do. The comprehensive plan is to be considered every 10 years and that was done a few years ago and nothing needed changed then.

Commissioner Bertling moved to deny the request to amend the Boundary County comprehensive plan land use designation map and the zoning map from agriculture/forestry to rural residential, File 21-0224, finding that the proposal is not in accord with the comprehensive plan and the criteria of Section 18 of Boundary County Zoning and Subdivision Ordinance, based on the findings and conclusions as written or amended, citing comprehensive plan Sections 14.4.2.1., 14.4.2.2., 14.5.3., and 14.14.1. This action does not result in a taking of private property. Commissioner Cossairt second. Motion passed unanimously.

The public hearing to consider Planning and Zoning Application #21-0224 ended at 3:36 p.m.

There being no further business, the meeting adjourned at 3:40 p.m.

DAN R. DINNING, Chairman

Attest:

GLEND POSTON, Clerk
By: Michelle Rohrwasser, Deputy Clerk