

**JEFFERSON COUNTY COMMISSIONER MEETING MINUTES  
DECEMBER 3, 2018**

Meeting called to order at 9:01. Those present are Commissioner Hancock, Commissioner Martinez, Chairman Farnsworth, Planning & Zoning Kevin Hathaway, Deputy Prosecutor Weston Davis, Clerk Colleen Poole; Audrey Moon is clerk of the board. Pledge of Allegiance led by Commissioner Martinez. Prayer offered by Colleen Poole.

**PLANNING & ZONING – KEVIN HATHAWAY**

• **APPEAL – MIKE TELFORD – (ACTION ITEM)**

[9:02:12 AM](#) Chairman Farnsworth said they are here today to decide if they are want to move forward with the Mike Telford appeal. Kevin said they received the appeal request. Came before the Commission and there were some questions they had. Also wanted to talk with Naysya who is here before they move forward.

[9:04:06 AM](#) Weston said procedurally Mr. Telford presented his argument in the last meeting. Feels when they get appeals they should be hearing both sides even the opposition. Thinks the Harrops should be able to present their argument. If they feel they need to take additional evidence they could do so at this time. Regarding statements made by county officials to members of the public. Want to be clear that the supporting case law there are three Idaho Supreme Court cases. Without addressing if notice was received on their rights to appeal. There are three cases that are important have Intermountain Construction, Inc. v. City of Ammon, Sprenger, Grubb & Associates, Inc. v. City of Hailey; and Terrazas v. Blaine County Board of Commissioners. Have specific citations essentially what these talked about is where people felt they were misrepresented and defrauded by the government because they were told one thing and the law was completely different. Basically they have people in these situations they are trying to do their jobs the best they can but cannot give legal advice. This will not stop the commissioners from following the law and what it should be. There were questions about estoppel and misrepresentation. These three cases dealt with that exact issue all three of them. The first one was a 1992 decision the most recent was a 2009 decision. When statements are made by public officials that this is not necessarily binding on that county. Otherwise they as commissioners would have their hands tied by people that may not be giving the right advice. Want the commission to be aware of this. Wanted to be clear on this. Does not think this is appropriate for members of the public to say it has to be this way because that was what they were told because it is not necessarily. Wants the public to know they are there to help them. Cannot give them legal advice. Does think it is appropriate to hear from the Harrops where they are the adverse party. Then if they want to take additional testimony that would be the proper time.

[9:08:39 AM](#) Commissioner Hancock said his understanding that the Planning & Zoning Commission when this occurred they decided they did not need a conditional use permit so they discontinued the hearing. The decision was not if they should grant this they decided it was not necessary. Now from the standpoint from procedure they need to see if they really should hear this because they have passed the twenty-eight day period. If they have a right then it would be remanded back to Planning & Zoning. Weston said appeals are jurisdictional. Can hear something or they cannot. From Idaho Supreme Court they have forty-two days to appeal. Once they pass this they are done. There is no extenuating circumstances. This is a civil appeal the commission has set an ordinance to say that they have fifteen days to appeal. Have twenty-eight days from their decision to go to a judicial review this is by statute. If they feel this is too short that is an issue for another day. From the time of the written decision the individuals had fifteen days regardless of what was said by any county employee. This is set by county ordinance. Think from a timeliness standpoint it would be hard to say this was timely. May have some arguments on what was said. In every one of these situations there was a fee or a permit with similar scenarios. Does not think from a timely standpoint this is properly in front of them. May be some questions with what Mr. Telford claims. Was physically present in the meeting. Claims he did not receive a copy of the written decision. Thinks he was on actual notice of this for a year and a half. Thinks they have missed the deadline. Recommends to deny off of that basis. Regarding the second question if no decision was made and said they did not have to be here so there is no decision. This is an interesting question if Planning & Zoning Commission got this wrong. Thinks the Harrops would have to reapply under this basis to the Planning & Zoning Commission. Commissioner Hancock asked who makes this decision do they make this. Weston said if they are violating county ordinance and no decision was made then this would be Planning & Zoning. They would verify if the ordinance is not being complied with. Would reach out for them to fix this and if they failed to comply this would be given to the Prosecuting Attorney. First outreach would come from Planning & Zoning Department. If this problem cannot be fixed and they do not want to be part of this process then this may fall on the Prosecuting Attorney. Most people do want to comply so does not suspect this would be a problem.

[9:15:13 AM](#) Chairman Farnsworth said there is no conditional use permit at this time. Will they need to refile for a conditional use permit to continue to run a business in a proper zone? Weston said this goes back to beyond today what happens. Chairman Farnsworth said that Planning & Zoning threw out the conditional permit and refunded money is this something they legally have the ability to do. Weston said this would be decision for them. Chairman Farnsworth thinks his biggest question is why they do not have a conditional use permit in an improper zone. Weston said that looking at the appeal itself that was not an issue with how the money was refunded. Weston said they need to stick on topic of the appeal that has been filed. If there is an issue with them if they exceeded their jurisdiction they can look at for future rectification. Can look at the scope of what Planning & Zoning Commission can do they can run through legal.

[9:17:26 AM](#) Commissioner Hancock thinks they deny the appeal and then it would go back to Planning & Zoning if they request them to do a conditional use permit. Weston said they should hear from the Harrops they need to have an opportunity to present any argument they would like since they are present. Commissioner Martinez said this is not a public hearing. Weston said they can present their argument to the appeal. The adverse party also gets to come in and present a rebuttal cannot present any new evidence. This way they are hearing from both sides of the table on what should or shouldn't happen. If they are saying something that was not said before they may ask where this is located in the record. Do not want to exceed the scope of what was presented below.

[9:19:13 AM](#) Chairman Farnsworth said they only need to hear from the Harrops if they grant the appeal. Weston recommend they should hear from them so their record is complete. If they make a decision that was adverse to what the Harrops decide to do they should have a complete record.

[9:19:55 AM](#) Jeff Banks with the Law Firm of Banks, Gaffney and McNally located at 330 Shoupe Ave, Suite 201 in Idaho Falls. Leann Harrop lives at 4229 E 550 N in Rigby. Bob Harrop lives at 4229 E 550 N in Rigby.

[9:20:41 AM](#) Mr. Banks having heard what Mr. Davis said he agrees with what his legal analysis of this. Believes the appellant was far beyond the time the fifteen days. Waited 834 days after to file this appeal. The law keeps this from happening but so does equity. The Harrops had a right to rely on the final decision was and they did rely on this. Cannot come before a commission and rely on what is happening and rely on the law that is there then people would be very unwilling to trust the government. This is why it has to be due process. They are asking the Commissioners to deny the appeal. This will stop this process. Will take it a step further there was a final decision. It was not only that they did not need a conditional use permit. But that what the Harrops were doing met the definition and requirements as an agricultural business. The county cannot say now they have to do a conditional use permit. This decision was final over two years and three months ago. If the Commissioners went forward with an appeal it would be outside of their jurisdictions under their ordinances and State law. Ask that they follow legal advice and deny the appeal.

[9:23:56 AM](#) Leann said this is a difficult conversation. Feels that two of the rescinding commissioners have issues and feels this has been politically driven. Feels very blessed that the Lord gave her an agricultural ranch and the State of Idaho has given her a certificate as a five generation rancher. In the situation where the ancestor behind her that has worked very hard to have this. They have worked very hard to work on this to survive the ranch. Only started this ranch because men were coming to her and asking her to find items for them. Wanted to help and serve. Had no desire to hurt anyone when they started this business or have anyone be hurt because of what she was doing. Can see their sides of the story Mr. Farnsworth when he is following and taking pictures of their trucks. Had a driver who thought they were in trouble. Had ran out to see if she could catch and talk to him. Has never come and spoke to her that they have a problem. Never has he come to her house with a problem they wanted to solve. Is curious enough to find out that there may be two reasons one would be politically or if he cares about the community. Was so curious so for three months studied the cars coming by her house when they were unloading. In October had four cars. Three of those cars went by with no problems one turned around and left does not know who the driver was. Was told groups were being sent to testify against her. In November had three cars come one was a plow and it is a county plow. Weston interrupts they need to make sure they are staying with what is in the record from before. If the contention is that one of the commissioners should recuse themselves they may be able to continue to listen to additional evidence. May need to clarify this their legal counsel does not want to say what she is saying is not important but may not apply here. Sounds like she is saying that Commissioner Farnsworth maybe should recuse himself. Mr. Banks says that is correct. Weston said with that he thinks they can continue with a relevant issue. Leann is not against this is willing to off the road. The hay, wheat and oat trucks all unload off the road. Is working on a plan to remove the truck so they are not unloading from this road.

[9:29:26 AM](#) Chairman Farnsworth said he gets phone calls daily about them blocking the road while they are unloading trucks. Went to Bob about getting off the road when they are loading and unloading. This is what he had asked was not to load and unload on the road. They block a county road while they load and unload. Asked how many acres they have. Guesses they have about one hundred acres. This is county safety. Tearing up a county road. Whether there has only been four or three cars this is still a county road. They are using the county road being used as a loading dock.

[9:30:33 AM](#) Bob asked what this has to do with the conditional use permit. This is a separate issue. They make sure they are not blocking the road. They seal coated 42 and 500 to 550 and they were unloading a truck and the county was able to come around with all of their equipment because they are almost off the road. They do not block the road. Chairman Farnsworth asked if they have pictures they block the road. The issue is they cannot load and unload on the road. Bob said this has nothing to do with the conditional use permit. Mr. Banks asked that they not engage. Weston wants to make sure the scope of this is correct. Could be a valid concern that could be ran through the prosecuting Attorney Office if they are doing something out of the scope on a public right-of-way. The issue here on the appeal if they start taking evidence then they are moving beyond the scope of the appeal itself. Does not recall specifically had come in late when Mr. Telford presented his evidence. Thinks they need to compartmentalize this.

[9:32:28 AM](#) Weston said the first issue is that Mrs. Harrop is arguing there may be a conflict of interest. Understands that Commissioner Farnsworth's response is that he has a public interest and not a private interest. Should be sitting on the commission because he is concerned on public safety as part of his duties. In light of this is there a motion standing that Commissioner Farnsworth recuse himself? Bob would make that motion. Weston asked on what basis this could be personal basis that he could not remain objective. May need to clarify through their counsel. Mr. Banks said there have been some personal issues. Also there has been him doing his own investigations of some kind which would be a conflict of interest because then he would be presenting evidence. Also believes there was some political reasons because Mr. Farnsworth was not reelected and the Harrops were supporters of his competitor. Weston asked Chairman Farnsworth based on this argument on his understanding based on these allegations if he can remain impartial to address the issues. Chairman Farnsworth said he can remain impartial. The issue he brought up is loading and unloading on the road. Weston said they do not want to present additional evidence. If he can look at this impartially he does not have to recuse himself. If he feels that there is any chance from past conflicts that would make him not partial he would suggest he recuse himself. Chairman Farnsworth said they can go off of what is here Telford presented an appeal. Attorneys addressed this issue they are 834 days late. So the other two commissioners can speak on what their wishes are.

[9:35:57 AM](#) Commissioner Hancock thinks at this time based on the time element and what has been presented from legal counsel that they would deny. Commissioner Martinez believes this is true. Sounds like the appeal was put in too late.

[9:36:46 AM](#) **Motion by Commissioner Hancock to deny the Mike Telford appeal regarding the Harrop property. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

[9:37:19 AM](#) Chairman Farnsworth said they need to make sure they are not loading and unloading on the road. Bob said they are working on this but it may take some time.

## **COMMISSIONERS**

- **NEW BUILDING PROJECT – (ACTION ITEM)**

[9:38:27 AM](#) Commissioner Hancock said he was here on Friday trying to see if they could finish the curb and gutter. Poured part of this on Wednesday and the machine broke down. Thought they would have this finished so they could finish but he does not think this was poured on Friday. The rest of the building is moving forward except for the basement. Waiting on manpower to remove the studs and air handling in the basement. They do have the ducting moved up. Colleen provides a change order. Commissioner Hancock said this is the one they approved last week. Can start to tell where all the rooms are in the new building. Have put in a lot of the countertops now as well.

- **INTERMOUNTAIN INSURANCE SERVICES PROFESSIONAL SERVICE AGREEMENT – (ACTION ITEM)**

[9:42:45 AM](#) Motion by Commissioner Hancock to approve the signature of the following a Personal Service Agreement with Intermountain Insurance, HIPAA Business Associates Agreement with Intermountain Insurance, Plan Update, Amendment to Administrative Service Agreement with Blue Cross and Jefferson County and Benefit Summary. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

[9:44:56 AM](#) Commissioner Hancock informs the commissioner elects that the health insurance has not taken an increase. They are self-funded. Have not been taking any increases in their rates like a lot of the surrounding counties.

- **SIGN CERTIFICATES OF RESIDENCY – (ACTION ITEM)**

[9:46:19 AM](#) Motion by Commissioner Martinez to approve certificates of residency for the College of Eastern Idaho for Ashlyn Allen, Casey Beck, Jonathan Beck, Tambree Killian, Samantha Kofoed, Daniel Mattson, Sheridan Mattson and Cheyenne Walker. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

- **APPROVE COMMISSIONER MEETING MINUTES – (ACTION ITEM) - CANCELLED**

[9:51:38 AM](#) Recess

Open session 10:01

[10:01:52 AM](#) Weston thinks on the written decision they can table this and review this once they have time. Chairman Farnsworth said they will table the written decision for Verizon. For the record there is no one present that is interested in this discussion.

## **PUBLIC WORKS – DAVE WALRATH**

- **UPDATE**

[10:03:07 AM](#) Dave said they have been out plowing snow as early as 3:00. Did do shoulder work on 3500 and 3800 using the Bonneville County chip spreader. Moving forward will continue to use this machine. It is a much more efficient way to use this machine. Chairman Farnsworth said they may want to update the one they have. Dave said that is something they will need to look at. For Solid Waste they have their monthly safety meeting tomorrow morning.

- **IDAHO UNIFIED CERTIFICATION PROGRAM STATEMENT OF AGREEMENT – (ACTION ITEM)**

[10:05:07 AM](#) Dave believes this agreement is when ITD does a federal aid project the federal rules require they use a certain percentage of Disadvantaged Business Enterprises (DBE). These are minority owned businesses. Each project they set a goal for that project that has to be done by DBE subcontractors. Believes this agreement is saying that the county is aware and amenable to this. Colleen said that Weston did review this. Commissioner Hancock said they are stating when they have any projects with federal funds they will follow these guidelines. Dave said this is something new from federal highways that they acknowledge this. Commissioner Hancock asked if this is because of the pending highway project. Weston said that this has gone out to other counties. Dave said Idaho Traffic Safety is one sub under this enterprise. Idaho Asphalt used to be but they are too big now.

[10:08:18 AM](#) Motion by Commissioner Hancock to approve the statement of agreement for the Idaho Unified Certification Program with Jefferson County and Idaho Department of Transportation. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.

- **REVISED ANNUAL ROAD & STREET FINANCIAL REPORT – (ACTION ITEM)**

[10:09:14 AM](#) Dave said they had some errors in this wanted to present the revised copy. This is painstaking going through all the work orders through the years. Colleen said this is not due until the end of December so they are ahead on this.

- **RIGHT-OF-WAY CERTIFICATE FOR 4100 E/STATE HIGHWAY 48 INTERSECTION – (ACTION ITEM)**

[10:12:20 AM](#) Dave still has three utilities on here because that is what the engineer is telling him. Has the ITD key number and project name and Jefferson County is the entity. Chairman Farnsworth said this is for the ditch they bought last week.

[10:14:37 AM](#) Dave provides information on the Cannon Dairy road project. Believes they are moving forward on this grant application. Commissioner Hancock said he may want to get with Loren on the schedule of the new building. Would still like them to put down some gravel. Dave will touch base with him.

**COMMISSIONERS**

- **WRITTEN DECISION – VERIZON WIRELESS APPEAL – (ACTION ITEM)**

[10:16:32 AM](#) Chairman Farnsworth goes over this is a written decision on the appeal from Verizon Wireless. Original public hearing was for a conditional use permit to install a cell phone tower at approximately 3745 E County Line Road behind the George Olaveson Veterinary Clinic. This is a copy of the proceedings that took place in the first hearing and the appeal hearing. Commissioner Hancock said there was another hearing where this was tabled as well. Jenny said it is all in there. Commissioner Hancock said their basis on approving this appeal was it was zoned in the proper area. Most of all the two major reasons with people opposing this was health reasons which according to federal law is not valid and the second was home devaluation. This is a tough one again. Weston clarifies this was for a 120 foot tower that is a monopole. Chairman Farnsworth said that is what is written. Verizon may install a shorter monopole tower on the requested property.

[10:18:49 AM](#) **Motion by Commissioner Martinez to approve the written decision for the Verizon Wireless appeal to have a monopole not to exceed 120 feet on the property. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

**DEPUTY PROSECUTOR – WESTON DAVIS**

- **LEGAL COUNSEL: EXECUTIVE SESSION IC 74-206 FOR PERSONNEL, HIRING CONSIDERATION, EMPLOYEE EVALUATION AND COMPLAINTS (1)(A) & (B), PENDING LITIGATION (1)(F), OR DELIBERATIONS ON LABOR NEGOTIATIONS OR PURCHASE OF PROPERTY (1)(C) – (AS NEEDED)**

[10:20:48 AM](#) **Motion by Commissioner Martinez to go into executive session 74-206 (F) – Legal. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

Open session 10:34

**COMMISSIONERS**

- **ARBOR TECH REIMBURSEMENT – (ACTION ITEM)**

[10:34:11 AM](#) Chairman Farnsworth said they are going to table this discussion to get some more information.

**SOCIAL SERVICES – JACKIE MAUPIN**

- **EXECUTIVE SESSION 31-874 & 74-206(D) – RECORDS EXEMPT FROM DISCLOSURE**

[10:35:48 AM](#) **Motion by Commissioner Hancock to go into executive session 31-874 & 74-206 (D) – Records exempt from disclosure. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

Open session 10:39

- **APPROVAL OR DENIAL OF INDIGENCY APPLICATION – (ACTION ITEM)**

[10:39:22 AM](#) **Motion by Commissioner Hancock to deny case #2019-3 for lack of cooperation and pending other resources. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

[10:39:47 AM](#) Recess until 1:00

Open session 1:00

**PLANNING & ZONING – KEVIN HATHAWAY – JENNY KERR**

- **PUBLIC HEARING – ZONE CHANGE – EAGLE ROCK HOLDINGS – (ACTION ITEM)**

[1:01:02 PM](#) Chairman Farnsworth said they have sign-up sheets. Jenny goes over the staff report. Owner and applicant is Eagle Rock Holdings, LLC with Dale and Chris Hepworth. Request is a zoning ordinance map amendment. Property is located at approximately 3215 E County Line Road. Zoning is currently heavy industrial. Surrounding zoning is Ag10, light industrial, heavy industrial and RCO. Parcel size is 7.50 acres. Surrounding land use is residential subdivision, light industrial and agriculture. The purpose is the county has initiated this zone change to correct previous zoning irregularities. Application was competed on October 22, 2018. Legal notice was sent November 19, 2018 to the Jefferson Star to publish on November 4 and November 28, 2018. [sic] Notice was sent to property owners within 1,000 feet on November 19, 2018. Property and courthouse was posted on November 19, 2018. This property is not in the flood plain or the City of Rigby impact area.

[1:03:09 PM](#) Kevin said they are here today shows the map of the properties indicating which properties are which. Have the history of the zoning on this property. Asked if the Hepworths would support an application to correct zoning so this complies with the zoning in the area. Have not collected a fee since they initiated the action so that is a decision they will need to make. This came about because this piece is in front of a light industrial piece. This is the Challenger Pallet parcel and the piece below is heavy industrial. The concern is that any heavy industrial use would be a conflict with the surrounding area. Are here to rezone more correctly so this conforms to surrounding zoning. This was originally Ag10. One home was built in 1960 other was built in 1975 when this was Ag10. In 2003 it changed from Ag10 to commercial. In 2005 this went to heavy industrial and back to light industrial between 2007. Then in 2008 it changed to heavy industrial which is what it is now. Not sure of the circumstances with all of these zone changes. Need to correct this to comply. There are no houses allowed in a heavy industrial zone so these two houses would not be permitted today. Have talked with Mr. Harris and explained to him that they would have brought them too but will be back on the others. Right now are just rezoning this to conform to the light industrial zoning.

[1:06:21 PM](#) Dale Hepworth mentions he does have a partner. Dale Hepworth live at 1 N 3300 E in Jefferson County. His partner Blair Sautter and I are partners in Eagle Rock Holdings, LLC. We own the property in question at 3215 East County Line Road, in Jefferson County. I do have a  
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notarized copy of my partner's signature authorizing me to act in his behalf as he is unable to attend today. (Exhibit A) Dale reads "Kevin Hathaway contacted us and informed us that our property was inappropriately spot zoned. We currently have "heavy industrial zoning". We were attracted to the property initially because of the heavy industrial zoning. We invested a sizeable amount of money to acquire the property and make improvements to it with an additional building and lot improvements. However, in discussing the pros and cons of the different zoning with Mr. Hathaway, we do feel like the "light industrial zoning" is adequate for our uses and is in better compliance with the Jefferson County's Comprehensive Plan, as the contingent property to the north is zoned "light industrial" as well. We feel like the change in zoning would be more compatible with residential area. A win for the community and county. We would be willing to accept the "light industrial" zoning proposed by Mr. Hathaway" (Exhibit B)

[1:08:39 PM](#) **Planning & Zoning legal counsel Mr. Paul Ziel is in the room**

[1:08:39 PM](#) Chairman Farnsworth asked for anyone that is signed up in favor, neutral or against. Jenny provides a sign-up sheet.

[1:08:57 PM](#) Chairman Farnsworth has a statement from Janet Richardson. Concerning zoning the lot north of County Line Road on the east side of the Snake River. This is a residential area and should not be zoned for Challenger Pallet Company to be used for industrial expansion of the area. So is in favor of the zone change. Have no one signed up in neutral or against. Chairman Farnsworth said there is no one signed up against so they will close the public hearing section and deliberate on the change.

[1:10:01 PM](#) Weston asked Planning & Zoning how this is set up with the comprehensive plan. Is the heavy industrial part of the comprehensive plan and how does this fit into this. Kevin said this is mixed use. Weston wants to know what the comprehensive plan shows. This does not say this is heavy industrial versus light industrial. So if they change this to light industrial it will still be in compliance with the comprehensive plan.

[1:11:16 PM](#) Chairman Farnsworth asked for any comments from the commissioners.

[1:11:24 PM](#) **Motion by Commissioner Hancock to approve the zone change on the parcel they have been discussing from heavy industrial to light industrial for Eagle Rock Holdings, LLC. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

[1:12:01 PM](#) Kevin said they need to determine if they would waive this fee since the county instigated this change. Chairman Farnsworth proposes where the county initiated this they can grant to waive the fee. How much is this fee. Commissioner Hancock said this is \$500.

[1:12:32 PM](#) **Motion by Chairman Farnsworth since the county instigated this zone change they will waive the fee of \$500. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

- **APPEAL – TINA GILGEN – (ACTION ITEM)**

[1:13:34 PM](#) Kevin has asked Mr. Ziel to induce this due to some legal issues. Mr. Ziel said Kevin had ask him to look at this issue. Specifically the Ririe Impact Agreement and the board that made this decision to deny this conditional use permit. The question was from Kevin if the board was properly constituted. If they look at the agreement at section six. The second paragraph under section six representation of this County Board referring to the Ririe Impact Agreement. Shall include two members residing in the impact area with one member appointed by the Jefferson County Commissioner and one recommended to the Commission by the Ririe City Council. After this appeal was filed they were could not find any documentation from 2013 or since then that County Commissioners had ever appointed a member to this area of impact commission or that there was a joint recommendation. Another thing when looking at the appeal does appear that two of the members on this are residing in Bonneville County which makes sense because Ririe is in both counties. Was asked to look at where it puts this particular appeal may defer to the county legal counsel. Planning & Zoning does have some concerns that the impact area board was not properly constituted. Does not seem they have followed the procedures. Also lets them know that Mr. Hathaway asked him to look at they applied the Ririe ordinance and not the County ordinance. If they applied the county ordinances it seems they would have had this conditional use under a hardship. The county has adopted the Ririe ordinances so that is what would apply for this area. Raising a lot of issues is willing to answer any questions they have. Was looking at this if they would make a recommendation and whether they adopt this or not. Pursuant to 5D of the Impact Agreement did find that this was appropriate that this should be in front of them in a form of an appeal.

[1:20:50 PM](#) Weston asked if there is a written decision. Mr. Ziel said there was a written decision from the City of Ririe. Is on a back page. titled Ririe Planning & Zoning Commission Facts and Finding for Gilgen conditional use permit. Commissioner Hancock said as far as jurisdiction it was muddy on who hears the appeal if it is the City of Ririe or Jefferson County Commissioners. Kevin said any appeals with City of Ririe would be heard by the City Council. Any appeals from the area of impact would be heard by them. Mr. Ziel agrees he found this in the Impact Area agreement. Basically the county has the final say on this. Thinks the agreement is in accordance with Idaho Law. Think they have jurisdiction.

[1:23:06 PM](#) Weston said from an annexation standpoint once this becomes annexed in then it would no longer be in their jurisdiction. It is the area of impact so it has not been annexed in. Then have the option that the City of Ririe wants this to be part of the city at some point. Have the guidelines because they will be annexed in. All appeals still come to them because it is technically still in the county. The argument is the board itself is deficient because they did not meet requirements from section six. The contention on Gilgen is if this was considered by a proper commission they may have a different finding. Mr. Ziel said he cannot speak for her was just asked to look at this from Planning & Zoning. Was a question if they were properly constituted. They wanted to let them know they think this may be deficient. In terms of findings they are not the finders of facts. Commissioner Hancock asked if they deem the Commission makeup was inappropriate based on this then will they need to fix their commission and re-hear this before it goes to an appeal. Mr. Ziel thinks this is something they will need to look at. With a procedural deficiency the court would remand this back to the lower court to fix this but they have a different standard.

[1:25:48 PM](#) Chairman Farnsworth said this is the area of impact what is the ruling on conditional use permits for trailers for hardships. Kevin said the county is configured differently than what City of Ririe has. Weston said the City of Ririe has different ordinances than the county. Kevin said the county ordinance 3.11.6 under manufactured homes and it gives conditions. Has exceptions of sections A through E. One of the exceptions

they would allow a single wide trailer if the dwelling is a temporary unit, provide for a relative of not more than one level of consanguinity or if it is to be used by farm labor. One of these exemptions could be applied for if looking at county ordinance. Is complicated because it is in the area of impact. Chairman Farnsworth said the original permit was denied. Did not see the findings. Kevin said the decision is on the back of the Ririe meeting minutes. Mr. Ziel agrees with Mr. Hathaway if they look at the area of impact agreement section three talks about a conflict and in an event of a discrepancy of the legal map and the legal description the map shall control subject to any other provisions of this ordinance in event of any ambiguity the map and legal should be read together. May have misread this goes to section five. The Ririe City Planning & Zoning ordinance and mobile home amendments and all the amendments should be enforced in the area of impact agreement. Are hereby adopted by Jefferson County to be applicable in the area of impact. Does say that they did adopt the Ririe ordinance. Approving or denying development requests will be determined by the Jefferson County Commission. This is not just a recommendation and appeal tying all the loose ends together they talk about the land use decision.

[1:31:10 PM](#) Commissioner Hancock said they are supposed to follow the ordinances for the City of Ririe. Still the question comes on if the board was properly organized. Mr. Ziel said it is a good question and then what do they do in this context if they weren't. Knows in the courts they remand this back. Chairman Farnsworth said this does fall into their area of impact. Will this fall on them as far as the appeal to deny or grant? Mr. Ziel feels confident that this would fall into their lap. Personally feels confident that it does. Weston agrees by this agreement it reserves jurisdiction to Jefferson County Commission. Trying to find a definition since they have two commissions with Planning & Zoning and Commissioners themselves. Seems like they are intending to have this come back to them. Can approve, reverse or remand the decision with the board be reconstituted. Then Ms. Gilgen would be able to appeal. Seems the appeal is being presented by Ms. Gilgen would want to hear from her. Weston said they will be looking at the City of Ririe ordinances for this since the county adopted these for this area.

[1:33:40 PM](#) Tina Gilgen 53 N 4600 E Rigby, Idaho. Appealing to the county for a conditional use permit applied for in September of 2018. Fell under the conditions of this application the key points were not heard. As they can imagine it has been terrible since September not knowing. First they were going to Ririe than to Rigby. That very night in the Rigby meeting they also approved a single wide trailer for basically the same use to help a family member. This is a mile and a half down the road. Seems like no one knows what they need to do. Ririe or Rigby did not know. It was tabled the night of the Rigby meeting for them to go to the Ririe meeting the next month which was November of 2018. In the Rigby meeting they stated that they had been jerked around and could possibly hold an emergency meeting since winter was almost here and was trying to get this done before snow comes. Two of the men were not willing to come in for a special meeting. So the Ririe meeting was set for November of 2018 was clear that they had already made up their minds and it was a waste of time. In the Rigby meeting they asked questions acted like they were willing to do something. The Ririe council kept their heads down did not ask any questions. Had sked because they just approved a trailer across the street from her and a lot over which they were trying to say this was different. This is a mini-double wide has not been over to measure. This seems like the same size as theirs and is not on a foundation. Might have some conditions but they did not allow them to consider any conditions. This is a very bad hardship case. Trying to help their son out. It is not anything permanent just like the one across the street. Everyone that was there for this felt that they clearly did not understand the hardship and the necessity of the application. Live in a small house with six people and one bathroom. There is zero privacy. The thing that she went against is they were discriminated against because they do not have as much money as some people that were on the council. Was told she could help her kids just like they help theirs. That is not fair and just because they love their kids just as much but their circumstances are different. Have the property to help them. Already had a trailer there when they bought this. Has the hookups. Just put a septic in and spoke with Vincent from Eastern Idaho Public Health and got the okay. Has power already there. Rigby had received a written decision from Ririe but they never received one. Her son is not on disability and is trying to help his family the best he can and with the weather getting worse they are trying to get this wrapped up before winter. Feels there are so many other trailers in the vicinity and down the road is not sure why theirs is any different. Not asking for this permanently just looking at a hardship to get them back on their feet. Have the trailer there and it is their property. Feels they need to help them out as best as they can. Here to ask for help to consider the appeal.

[1:40:43 PM](#) Chairman Farnsworth asked if other trailers are on permanent foundations. Tina said no one that was approved in the Rigby meeting is a mile down so it is not in the area of impact zone. In the Rigby meeting when they were ready to okay this until at the last minute they stated this was in the Ririe impact zone. This is the same it is a single wide to help a family member. The other one is right across the street from her house and the next lot over so this is in the area of impact. Feels very discriminated against. Was trying to say this had a different pitch or this or that. Knows they have contingencies on the trailers to be a certain length. This is why it is a hardship case not everybody has the means to be able to do it exactly like they want. If they would have given her the chance she would have told them they would be willing to conform. The others are not on a foundation. Also read the statutes and even though this is Ririe impact zone this still comes back and the Jefferson County Commission and they have the final say.

[1:43:15 PM](#) Weston wants to make sure he understands this case. Asked Mrs. Gilgen if there is already a permanent residence where they are moving a trailer. Tina said no they bought the house and this is right next door but is two separate parcels of land. Weston said specifically in the ordinances this is where they need her help. Planning & Zoning can also help but what exactly in what part of the ordinance did they get this wrong. Does not understand that part. Have a lot of pages and is not sure what is City of Ririe.

[1:44:33 PM](#) Commissioner Hancock thinks what she has eluded to is this is supposed to have certain pitched roof, permanent foundation and have a certain type of siding. They denied this off of that basis. Did not see in the Ririe Planning & Zoning for anything for special hardships cases. Tina said she was told this was not called a conditional use permit. It must be under some other section. This was her understanding. In Rigby it says if they do not have everything to conform just right then they can make exceptions. Commissioner Hancock said there is a comment that was specific in the Ririe ordinance that they were not going to allow any trailers in the impact area unless they met the standards but is not sure since they have one right across the street. Weston said in 8-4-7 under requirement these are in a different order. Does speak on requirements. Ms. Gilgen is saying under section 8-4-7 these are the requirements for manufactured homes. As they go through these requirements have sections A through E there is a lot where her specific mobile home does not meet. Trying to see if there is a difference between manufactured and mobile

homes. Both are manufactured. What is being said is that section A through E are requirements but felt there should be a hardship under these. Commissioner Hancock said he did not see any hardships. Weston asked on the house across the street is in the area of impact. Tina said it is. Commissioner Hancock said this is a single wide. Tina said this is like a mini-double wide they are not as long but are wider. Have not measured this out but would think it is similar square footage as theirs. This is not on a foundation. Commissioner Hancock said this is not on a foundation because that is a requirement. Kevin said he is aware of this trailer it was approved last December by Ririe City Council. Allowed this based on a five year conditional use placement. This is for the gentleman that works over at the stables who is a trainer. This was given a five year conditional use permit. Tina thinks they have the same rights as anybody else. Weston asked about the people down the street where the permit was allowed. Tina said the Browns. Weston asked if the Browns submitted a conditional use permit request. Tina said yes. Weston asked if she filed for a conditional use permit. Tina said yes. Weston said if he understands her petition correctly is saying that their decision was arbitrary because they granted this for one of the neighbors but not her. Tina said this was at the last minute in the Rigby meeting they had just approved the Brown's trailer then someone said that this was in the Ririe area of impact zone. So they okayed the Browns and tabled her. That is when they went before Ririe. Weston said that Rigby tabled theirs. Tina said that Rigby tabled this and made them go to Ririe. Never got a letter and did not realize that they were in any impact zone. Weston said that Ririe made the decision. Commissioner Hancock said this was based on the standards that they have. Mr. Ziel thinks that staff may have information. Browns are outside of the impact area.

[1:51:19 PM](#) Jenny said there are three different trailers. Commissioner Hancock said the Browns that was approved by City of Rigby they are not in the impact area. The one across the street was approved last year with a condition of five years and this was in the impact area. Commissioner Martinez thinks they need to approve this the same for five years because they are giving this lady the runaround. Does not seem to know what the ordinances are. She is trying to help her son on her own property feels they need to get this done. They need to get the commission fixed. Chairman Farnsworth said they want to make a motion. Commissioner Hancock said his concern is they have to look at this based on the Ririe ordinances. Commissioner Martinez said they are giving her the runaround. If they allow five years for her neighbor next door it should be the same. Commissioner Hancock asked if they should review these every year. Are they putting a maximum of five years then what? Tina said this is all they are asking for.

[1:53:30 PM](#) **Motion by Commissioner Martinez to overturn the denial and from the Ririe Planning & Zoning and grant a conditional use permit and will revisit this in five years.** Kevin said they review these permits every year. Weston is not opposed to the motion if they are using the City of Ririe ordinances need to find the section that talks about conditional use permits there. From the county standpoint they would be fine to make this motion. Commissioner Hancock said he did not see anything for hardships. Commissioner Martinez said there needs to be an ordinance for hardships. **Second by Chairman Farnsworth. Further discussion.** Chairman Farnsworth said if there are sets of rules it needs to be followed all around. Should not spot check things. If the zoning commission is improperly organized they need to fix that also. Weston is reviewing under section 10-9-3 subsection 6 it does go over hardships. Want to make sure this is in compliance with the zoning ordinances. Asked to have the Sheriff's Office called due to threats from the audience. Commissioner Hancock wanted to make sure they have a basis. Chairman Farnsworth thinks they are setting a precedence across the street. Weston said it appears that Commissioner Martinez that what he is saying is supported by the code that there is a hardship. Commissioner Martinez said he is tired they have ordinances whether this is Ririe or Jefferson County they need to get their ducks in a row and not send people on a wild goose chase to do the homework that they should already know. Reason he is fed-up is there was a recent case where they had the same thing happen and was brought to his attention. Everyone needs to know what is going on and the citizens that pay their taxes so the people working with the county better know their stuff and not give the runaround. Chairman Farnsworth said they have a motion and a second. **Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

[2:02:06 PM](#) Mayor of Ririe Larry Lovell would like to say he appreciates how they have handled this situation. Realize they do have some rough spots. Need to work together to get this done. Under the commission makeup they were unaware this has to be appointed by them can remedy that easy enough. The makeup of the commission is in a fair situation. Did have two people from the Bonneville County impact area, two from Jefferson County impact area and two from the City of Ririe. Is short one on the Bonneville County side right now. Need to know who to get with so they can work on this. Chairman Farnsworth thinks they can get with Planning & Zoning and their attorney to get this running the way they are supposed to. Mr. Lovell stated they need to work on this so they have items for hardships. Commissioner Hancock said this could be clarified better. Mr. Lovell said other things probably also need clarified but until they are faced with this. Thinks they have handled this the best they can between them. Was not their intent to jerk these people around. Knows these people personally and appreciates what they are trying to do but were trying to conform to the ordinances in place. Where they have a conjunctive agreement with the city and county. Mr. Ziel said that Mr. Hathaway has asked him to reach out to Mr. Dunn and will be drafting a letter. Intend to work with Ririe this will be a joint venture. Chairman Farnsworth thinks this is a good plan to work together.

[2:06:09 PM](#) **Planning & Zoning legal counsel Mr. Paul Ziel left room**

- **PUBLIC HEARING – PLAT AMENDMENT – SHANE JORGENSEN – (ACTION ITEM)**

[2:06:23 PM](#) Jenny said this is for a plat amendment. Owner and applicant is Shane and Jennifer Jorgensen. Request is for a plat amendment. Located at 4333 E 84 N in Rigby, Idaho in Cobblestone Acres Division 1. The applicant wants to adjust the lot line between lot two and three of Cobblestone Acres to better match the occupation line of lot three. The zoning is R-5. Surrounding zoning is R-5. Parcel size is five acres. Surrounding land use is residential and agricultural. Purpose is to adjust the lot lines so that it includes the applicant's driveway. Completed application was submitted November 7, 2018. Parcel is not located in floodplain or in City of Rigby impact area. Both parcels will be five acres after the correction which is what is required for the subdivision.

[2:07:51 PM](#) Shane Jorgensen 4333 E 84 N. When they built in the subdivision they did not realize the lot was going into the corner. Looking at the plot plan it intersects dead center in the circle. They realized this when they built but a year later they put in a driveway permanently and did

not look at the plot plan. Want to rotate the plot plan so they do not have to change the driveway so that everything is legal. Chairman Farnsworth said this keeps this at five acres. Shane said that it does. Chairman Farnsworth asked if there is anyone signed up in favor, against or neutral.

[2:09:10 PM](#) Don Gneiting lives at 87 N 4335 E he is the other impacted neighbor. When they built they did not pay close enough attention. The markers were buried from when they built the road. Just adjusting the line. This will save Shane a lot of money to make this legal so if either one of them sales they will not have any issues. All it does is push his acreage in the back and gives him room for the driveway. Commissioner Hancock said this only changes the one line in the entire subdivision. Chairman Farnsworth closes the public hearing portion and moves to deliberate.

[2:10:24 PM](#) **Motion by Commissioner Hancock to approve property line change in Rocky Lane between parcel 2A and 3A as a plat amendment for Shane Jorgensen. Second by Commissioner Martinez. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

- **RIRIE & MENAN AREA OF IMPACT PLANNING & ZONING COMMISSION – (ACTION ITEM)**

[2:13:00 PM](#) Kevin said they have reviewed this in the last hearing. Both the City of Ririe and City of Menan have deficiencies. These are exactly the same. Will have to do the same thing with both of them. Will work with the cities, Mr. Ziel and Mr. Davis on the changes.

[2:14:01 PM](#) **Deputy Prosecutor Weston Davis left room**

[2:14:09 PM](#) Commissioner Hancock said this is from 2012. Kevin said these are overdue. The timeframe the state said these should be good for ten years. Commissioner Hancock did not see a date on the other one. Kevin said this is another deficiency issue with not having a timeframe on renewal. Chairman Farnsworth said they are not ready to do anything with this today. Is this something he will work on with the cities and legal counsel and bring back names to appoint to the impact area commission? Kevin said it says they need one appointed by the Commission one by referral from city council to the commission. The other key aspect in the agreement it states that those two that are appointed these two positions can override all of the other votes. The situation in Ririe is problematic because they need to have two from Bonneville County side and two from Jefferson County side both from the impact area. Bonneville County side cannot decide on issues before the city that are not in their impact area. Key that these positions are appointed because this is the safeguard. Things in the area of impact agreement are outdated. These can be different but not so materially different than the county. Cannot have one for example if the county allows it and the city has no provision to allow it then it becomes a problem. Have not looked at the rest of the cities but suspects they are all the same. Chairman Farnsworth thinks to start with these and get some members.

[2:17:37 PM](#) **Deputy Prosecutor Weston Davis is in room**

[2:17:42 PM](#) Commissioner Hancock asked if Rigby will have the same requirements of two members from the area of impact. Can see the wisdom of this. Kevin said this is a good option to add in the agreement for consistency. Do not want to be so far out of compliance. Chairman Farnsworth said they also need to work on the ordinance so they are not more restrictive. Kevin said the city can be a little more restrictive but cannot be so far away from the county. Commissioner Hancock said then they see the inconsistencies about a mile down the road their neighbors can do different things. Really should make sure with Rigby they have the option to put two people on from the impact area. Kevin said these individuals have a very primary role. Commissioner Hancock said the City of Rigby is having a lot of growth. Really need to point out looking at the ordinances and the inconsistencies. Kevin said they will look at the old agreement and go through what works and what does not. They will review this before having legal review this.

- **SALVAGE PERMITS – (ACTION ITEM)**

[2:21:15 PM](#) Kevin said these are the salvage permits for annual renewal that have been inspected and need signatures.

[2:21:28 PM](#) **Motion by Commissioner Martinez to approve salvage permits for Intermountain Auto, Valley Auto Salvage, Peterson Boys, LLC and Market Lake Salvage. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

[2:23:17 PM](#) Recess

Open session 3:00

## **PLANNING & ZONING – KEVIN HATHAWAY**

- **EXECUTIVE SESSION 74-206 (A) – PERSONNEL – PLANNING & ZONING COMMISSION INTERVIEWS**

[3:00:15 PM](#) **Motion by Commissioner Martinez to go into executive session 74-206 (A) – Personnel for Planning & Zoning Commission interviews. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

Open session 3:12

- **PERSONNEL ACTION – (ACTION ITEM)**

[3:13:02 PM](#) **Motion by Commissioner Martinez to appoint Corey Beebe for the Planning & Zoning Commission seat with a minimum of three years or to two terms. Second by Commissioner Hancock. Roll call taken. Commissioner Hancock – aye, Commissioner Martinez – aye, Chairman Farnsworth – aye. Motion passed.**

[3:14:35 PM](#) **Motion by Commissioner Hancock to adjourn at 3:15. Second by Commissioner Martinez. All in favor – aye. Motion passed.**

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*Chairman of the Board*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Clerk of the Board*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*County Clerk*

\_\_\_\_\_  
*Date*