

**SPECIAL JEFFERSON COUNTY COMMISSIONER MEETING MINUTES
APRIL 24, 2018**

Meeting called to order at 7:00. Those present are Commissioner Hancock, Commissioner Martinez, Chairman Farnsworth, Planning & Zoning Kevin Hathaway, Clerk Colleen Poole; Audrey Moon is clerk of the board.

COMMISSIONERS - BEAR ISLAND ESTATES – SNAKE RIVER ESTATES

• **CHALLENGER PALLET ISSUES**

[7:00:44 PM](#) Kevin said they received a petition from these individuals with complaints on Challenger Pallets. Have been in the process of investigating these complaints to see what the situation is. Still in this process. Did meet with Challenger today. Feels they had a productive meeting. Showed willingness to work together to resolve these issues. Best thing they can do tonight is for these individuals to involve their concerns. As they go through this process they can address these concerns.

[7:02:00 PM](#) Chairman Farnsworth said that this is a fact finding mission so they can hear their concerns. Can then meet with Challenger to go over these concerns. Would like to hear their concerns and worries. Do not want to get into any personal attacks. Go strictly with facts. Trying to come to a resolution. Have a sign-up sheet but in all honesty if they all want to speak they will listen to everyone. Tom said they have a presentation to start that if this is acceptable.

[7:03:16 PM](#) Tom O'Reily 16 N 3192 E in the Snake River Estates is the President of the Property Owners Association. Also have the rest of the board members here tonight. Want to correct any questions on the Bear Island petition this includes their neighborhood but also includes those neighbors completely surrounding the facility. Want to make it clear it is not just them having these issues. Obviously have discussed the noise issues last year. All the way up to the close of winter it changes then because they close their doors. Getting decibels of 116dBA. This morning there was quite a bit of racket going on by the time he got this meter between the Jones and Jacobs home behind the pallet factory was getting readings bouncing from 62, 68 and 70dBA this morning. This is an escape value that is far in excess of what is in the OSHA guidelines.

[7:05:45 PM](#) Tom said other issue is the lights that were installed. Main complaint is this is lighting up their bedrooms. Feel like they are in prison. So much so that it affects the folks at Bear Island. The expansion of the facility that took place it certainly has caused some major issues. Honestly have tried to work with these people. Made numerous calls with no results. Hours of operations are outrageous. Operating from 5:00 in the morning sometimes still operating at 2:00 in the morning. Common to be operating still at 11:00 to 12:00 at night. Would like to play a sample recording from Jay Hill's bedroom on April 12 at 11:40 p.m. this is with a closed window.

[7:08:02 PM](#) Tom said the Taylors, have sold their house and moved because of truck issues. Have to deal with trucks in and out all night long. Park these and the drivers will idle these in the summer and winter. Headlights are shining into the neighborhood. The six foot fence does not do any good. The moving of materials constantly dealing with trucks all the time including the compression breaks coming down County Line Road. It's not uncommon to have a semi turn into the neighborhood because they missed where Challenger Pallet Factory is. This was brought up believe that they had requested no compression breaks be allowed in that area. Transportation of materials they sell raw sawdust and store this in an unsafe manner. Talked with the Central Fire Chief today. With his experience in other areas he has lived have watched these operations catch on fire all the time. Knows that Washington has codes for this to be moved and stored because it is volatile. Have made a good faith effort. Have tried to make this work. Were here last year. Since last year they have not had any resolution. It is important to them because they are on the last straw.

[7:11:02 PM](#) Jay Hill 6 N 3202 E. Appreciates them setting this meeting up. Think it is important for them to hear what their lives have been like with the expansion. They are not comparing apples to apples. Challenger Pallet is much different than ten years ago. Have had problems along the way but they are increasing as the years go by. Went through a terrible two years that noise on the phone is meniscal compared to what it has been. Jesse Jones lives behind them she took the first step. Spoke with two gentlemen and they both denied knowing of a problem. Had a son come over and said he did not know where the problem was. Spoke with the EPA referencing the high level of noises. With that references that Congress created a law back in 1972 to do with federal noise. Funded the EPA to go in and enforce this law. In the 1980s the funding went away. Spoke with a lady in Washington D.C. who was very knowledgeable. They discussed this law and the intent is that the federal government take care of higher level things such as airports, railroads and those kinds of things. The rest flowed down to state and local municipalities. Frankly, Idaho is terrible does not have a noise law in the books unless this involves a vehicle. Have done extensive research on the internet there are some counties and cities that have taken care of this themselves. Believes these codes were passed on If parts and pieces are applicable to our county. Federally they have no recourse because there is no one to enforce this. Mentioned State law. Looked at local law enforcement all they have is a code for nuisance. "Anything which is injurious to health or morals, or indecent, or offensive to the sense, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property." This is a criminal code. Do not want it to get to this point but they are getting desperate. Have researched health issues with hearing. Normal conversation is 60dBI. If you are exposed to over 80dBI for over eight hours you can experience permanent hearing loss. Listening to noise comparable to a siren in their homes. This is not acceptable. Bill Smith said decibels are on an algorithmic scale so eighty is not twenty percent more than sixty decibels. It is more like twenty times sixty decibels. When quoting eighty decibels that is a big deal. Jay said that they contacted Planning & Zoning. Owes him a debt of gratitude appreciates the letter being sent on March 5. Feels these questions were very appropriate. Wants it on the record that Challenger did not respond until today April 24. Believes they gave them seven days to respond. Tom already mentioned the discussion with Central Fire District. Very happy to have the Bear Island residents join them he had no idea this was bothering them as well. Have tried to initiate a dialogue as already established there is no willingness. The other thing contacted Department of Environmental Quality (DEQ). Admitting gaps over there in some form. Not sure anyone could tell what is in those silos or if they are toxic. Looked up on DEQ site and Challenger Pallet does not have a permit but are required to. On behalf of the Snake River Estates Subdivision they opened a formal complaint with DEQ who will investigate this. They will be able to tell them what is coming out. Understands the wood is treated. A little bit of research shows some there are some carcinogens in the wood treatment. Not sure how much. This is not just one thing there is

a magnitude of things. This affects the residents. Right now in position they have to live with the consequences of a single business with no regard to those homes. When they moved in they are not talking apples to apples. The Challenger Pallet that existed when they moved in is a lot different than what is there today. This affects their quality of life. Cannot even use their back yard or go to sleep. His wife goes to bed at 9:00 so she can be up at 4:00 in the morning. There are families that have small kids. They cannot send their kids to play or they would be deaf.

[7:19:28 PM](#)

Thinks it is important to think of what kind of harm is being done to their hearing and overall health. This is not just a few people. If they add all of the surrounding people it is around 300 people that are affected. This is a significant portion affected by a small business. Found the system codes 3.3.16 and 3.16.1 there are a lot of wording on residential and people safety. Discusses harm being done to them. Gives the commissioners a lot of power to be able to protect people in the county. Thinks these are well worded. Thinks this system has failed them. Not to be offensive to them because a lot of this started on someone else's watch. This is geared to a resolution. But want to be honest on their feelings. Feels they are in a position as citizens they are trying to resolve this issue but thinks it is the responsibility of the government. Is willing to help by providing experiences. Questions how, when, why and whom issued these permits? What types were issue? What is generally done to monitor these different businesses? Is it self-report system or does someone go check? It is on his mind when these were issued the gentleman who runs the business was a commissioner. To him that smells. If there was a conflict of interest then they need to work through that. They are familiar with the county codes. Mentioned the different concerns and effects on themselves and families. Where they are at now is they would like to ask the Jefferson County Commissioners to issue an injunction to immediately address the most pressing issues. They are tired of living with this noise and distraction. That authority is listed right 3.3.16 and 3.16.1. This goes along with Commissioner Farnsworth on mitigating this problem. Start a process to do complete due diligence that is needed to reevaluate the conditions that Challenger Pallet operates. Review, modify and initiate a review program to make sure there is appropriate oversight. Where Mr. Hegstead was a commissioner before. They know how people talk have a concern that there could be a commissioner that if he participates in this there could be a conflict of interest. Thinks they will make a good decision in regards to this.

[7:24:36 PM](#)

Ward Whitmore 54 N 3167 E this is Idaho Falls but they are in Jefferson County. In Bear Island they do not have a Home Owners Association. They do have an organization that takes care of the community well. After one of those meetings adjourned the Challenger Pallet issue came up. Is the President of the Water Association so he had put together this petition. Given a copy to Kevin and see that the commissioners have one asks if he needs to formally read this. Chairman Farnsworth said they can add this as an exhibit. (Exhibit A) Ward said they have gone over the different issues with the types of noise. One thing that is important it's obvious that they are in clearly in violation of light industrial zoning. Read definition in the ordinance and his read is that there is no question that this is not light industrial. Is this an issue that is on their mind or do they believe this is light industrial?

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Kevin said this will be part of this process. This is subjective they are trying to determine this. Chairman Farnsworth said they are taking this information will have to get with their legal counsel. Need to decide and determine what constitutes light industrial and what constitutes heavy industrial is. If this starts out as light and then starts to expand with different hours does this change this from light to heavy? Need to make those determination. That will be part of this process.

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Ward said his opinion is reading light industrial is to provide for the community's needs. For the total production is a fraction of a percent that uses these product. Talks about different smaller types of operations. Asked the zoning and planning for all of the permits they had on Challenger. Read through these. These permits are for buildings. Have warehouse, a septic system. There is not a permit that addresses what goes on inside of those buildings. Was stunned that when he asked for permits they only have the structure and that they meet code. Do not have any permits that address these concerns they are talking about now. Not aware of any public hearings that talked about it. Side issue in the research that the area south between Challenger and County Line Road is heavy industrial and that was a surprise. This is a big concern. Now there are a few residences in this area. How can they have a residence in heavy industrial zone. Asks that they look at that zoning if there is light industrial and then heavy industrial right next to resident. Some of these talk about who was there first and site screens. Going over if Challenger was there before the residential area then it is up to the residents to mitigate the site screen. They are talking about light and noise. Bear Island is a quarter of a mile away and it is still a big problem. These are meaningless in regard to Bear Island.

[7:30:58 PM](#)

Bill Smith 28 N 3167 E lived across the river from the Hegsteads for forty-one years. Vic and Gloria were good friends. Building this up for decades when they were still alive. If they had any issues with the plant they would go over have a quick and polite conversation and it was fixed. Everyone was a good neighbor. As others have testified those days are gone. The owner and operators of the plant now will not communicate at all. This is a complete standoff. Tried to make effort after effort to discuss things. This is also true from the early decades of Challenger this operation has changed significantly. Think the language the land use table shows that manufacturing is allowed in a heavy and light industrial zone and not much applicable description of what is allowed. Anyone experiencing the things they are in pure common sense this is no longer light industrial. With the latest upgrades this is heavy industrial. The previous witnesses have described the problems that are occurring. Am testifying as an effected person as defined in the zoning ordinance. They are affected even though they live across the river. There are people who will not sit out on the back porch due to these issues. There are mornings when they know exactly when the lights and machines are turned on. Simply asking the county to take action to address these problems. In turn of remedies Ward referenced the petition. This has been signed by everyone in the area. Will read five things they are asking. Is an entrepreneur, a lot of people in the area have their own businesses. They are not trying to shut anyone down. Looking at consideration on the part of the plant. Like to county to act in a timely manner to require the plant to operate in the light industrial criteria. Go over and listen to this but do not announce when they are going over. Asks the county to not change this zoning to heavy industrial. If they do issue a conditional use permit they would like these to be in that permit. Not permit the plant lighting nuisance to go over plant property. There are lights that do not cast in all direction. These could be installed without being a disturbance to approximate residents. Not permit the plant noise nuisance to extend off the plant property which would need some noise mitigation. Operating with the doors closed does limit the noise. If they need to install air conditioning for summer then so be it. The business of running trucks all night to keep warm or cool this is also not something they will live with. Finally aske they do not permit these to run past normal work day of Monday through Friday from 8:00 to 5:00 is what they are looking for. Asked if they have any questions. Chairman Farnsworth thinks he has given them his concerns.

[7:37:50 PM](#) Commissioner Hancock said in looking at this it seems like they have changed a few things over the last four or five months. Said they have moved the lighting down. Tom said the type of lighting they have is not on poles. Uses Kline as an example looking at this they have their lights on poles with the lights shining back at the building. At Challenger to save money they put these on the building so they can run the plant at night. Recently have made some effort to tip some lights down. It is not sufficient. They type of lights are not conducive to this environment. Knew they were in the middle of neighborhoods. Tipping these down does not cut this. There was an effort but this is not sufficient. Interesting that his natural thought is they these lights on poles but they are not they are mounted on the building. Still shining out. Jay said originally they had these on poles.

[7:40:30 PM](#) Deborah Snyder her husband Max live across the street from the pallet factory. Rented this in June of 2016 and have seen growth going into the whole backside. Have now put lights up that shine into the front of the house. They are big search lights have to close blinds because they shine into the house. Have three lights shining right into their homes. Growth has doubled. Went out to speak to husband in front yard and could not hear her in their front yard. Some of this has quieted. But the trucks are constant. Building a home on the south side down.

[7:42:52 PM](#) Bill Smith said if looking at the zoning ordinance number one is to protect property rights and enhance property values. If they had a buyer show up when this is operating they would laugh in their face. Property values are ridiculous when the plant is running is asking them to protect their investments. Debbie said this is 6:00 in the morning until past midnight.

[7:43:46 PM](#) Tom looked for the Carlson's who wanted to sell their home. Have managed to sell this home but this was a question that was asked when they have to reduce price to keep buyers interested. This is real world experience. Commissioner Hancock wondered have addressed that the noise has lessened significantly. Bill said if they operate will all doors closed it lessens the noise. Commissioner Hancock said they quoted sixty-two decibels.

[7:45:00 PM](#) Gwenna Hill at 6 N 3202 E. The recording that was played earlier was inside her house on April 12 at 11:40 at night it did snow that night so the doors were not opened. It has not approved Tom said the decibel reading as he explained that by the time he could get the meter they were still getting escape values of sixty-two to sixty-eight. This was after the major noise was over. Were still in violation of the EPA codes. All business owners feel they are reasonable. The need to mitigate these issue. Had spoken with the son that they could stack pallets around offending equipment to get a buffer going. There is equipment available. If you have an outside air conditioner they have noise dampening foam. They have no interest in taking any mitigation. If they were working with us they would work with them. Are beyond that. Looking at these codes they are in legal violation on a criminal basis. They could be fined and jail time is associated with this. They are a heavy industrial operation. It is unacceptable. They can say all they want that they have made significant changes. If they are coming to them saying they needed time to move the lights to poles and will shine these a different direction. What they hear is nothing.

[7:48:44 PM](#) Ward wants to talks about process getting testimony from them. Seems there has been some communication. Will they be publishing testimony? Kevin said this is not public yet. Ward asked the process for distributing what they know. Chairman Farnsworth said they are taking the concerns along with light and heavy industrial description will get with Planning & Zoning and attorney to see where they stand on. They may have legal ground that they can go on but they may not. Thinks what it boils down to they are hoping that they can get Challenger Pallet to stand up and be a good neighbor.

[7:50:16 PM](#) Tom said the time table is the concern they were here last year. Realize there was a method they were working in and then had an individual leave. There are legal ramifications. Do not have time to wait. Challenger is being sold and the next company will not be a hometown player. The plant has been set up and built to run 24/7. Regardless to what they are claiming they all know what time they start and what time they finish. Want a timeframe here. Do not want to study the issue and will get back to them. Want this to be resolved. Need to start out by issuing an injunction. This is in their purview. This stops them from doing some of the worst things they are doing. Slap them with reasonable operating hours. Would like to see this happen today or Monday. They are done. Where it goes from here this situation has put the county in a legal situation. If they do not take action can be subject to lawsuits. Want action taken immediately they do not need a complete resolution.

[7:52:56 PM](#) Commissioner Martinez said that they want to come to a solution but they have to give the time to our Planning & Zoning Administrator. Knows that summer time is coming up and this is play time. Knows the frustrations. Wants to also give Kevin the opportunity to take this information and make sure they are taking this to legal to not put the county in jeopardy. Bill said not enforcing this sets a precedence. Chairman Farnsworth said that they have to follow the proper steps. Will put this on the May 7 agenda. Will have something by then not sure what it will be. Jay thinks this is fair. Have thrown a lot at them and realize they have to be reasonable.

[7:54:43 PM](#) Linda Higgins 48 N 3167 E it hit her really hard when Commissioner Hancock said that the lights were fixed. If they look at Bear Island the back of homes face the lights. The lights you cannot sit out there and look across the river without your eyes hurting. Have four or five mounted to the building with two really bright ones. Have big beautiful homes. Cannot go anywhere in the yard and see the stars. The noise is always running. On Thursday it was running until 3:30 in the morning. The lights are mounted on the building. Offered to pay for the covers. Offered to donate the money to help pay for these items. Been here twenty years when she first moved there it was not like this. Living at a place where they have to plan to be outside. Have the heat on, the fans on and music on and still can hear them. Have driven over there and also have had the son come over. Showed them how unreasonable this. Do not want individuals to come from all over the country to hear this noise. It is loud. Teaches meditation cannot do this at all have to go to the basement. Paying taxes every year and this is their homes.

[7:58:32 PM](#) Commissioner Martinez drove over there the other night on a date they could see the glow of the lights in the sky. It takes time. Hopes they give them the time to come up with something.

[7:59:07 PM](#) Mike Meyers 25 N 3202 E in Snake River Estates. Bought this home ten years ago. Before they bought the property saw the plant there. Went out in the evenings they never ran past 6:00. Talked to neighbors and none of them had complaints. Is here to tell them how much this has changed dramatically. Served missions out of the country. If you leave and come back they noticed a huge difference. Went to Africa five years ago. Came back from South America ten months ago and it was a different community. It has changed dramatically. Not sure of the rules on

light and heavy industry but sound like heavy industry to him. Wanted to go on record especially for the one that does not believe the testimony today.

8:01:30 PM Commissioner Hancock said they went out with Kevin today. Mike said that they need to go out there without an appointment.

8:01:53 PM Jay Hill when they spoke with regional EPA person the manager told them that every time they have gone to Challenger Pallet it is shut down conveniently. The lying they have down right to their faces. It is deceptive in nature. Commissioner Hancock and Kevin went around 1:30. Tom said that the noise this morning was earlier. Was it scheduled? Commissioner Hancock said it was an appointment and the plant was running.

8:03:01 PM Chairman Farnsworth said they will have this on the May 7 agenda. Tom said they need to be aware that they need to do something about this. There is other action that can be taken. The law is very clear. Chairman Farnsworth said he understands it is not good sleeping with that noise.

8:03:52 PM Bob Ward 64 N 3167 E in Bear Island. Lives aways away. Did not realize they all had issues because he had not been in communication. Will not go over the same issues. The backup alarms are on all of the equipment. This starts at 6:00 in the morning. This needs addressed. It is required to have this by OSHA. Feels sorry for the folks extremely close. Has similar lights on a shop and is embarrassed to run these. These are cheap and they light up the entire area. Need to put the lights on some kind of boundary. Other thing knows that a big dairy in Utah took years using what Challenger Pallets using that they were grandfathered in. Challenger sold the property these folks put homes on. The dairy thing kept going on but the squeaky wheel gets the grease. County Commissioners know they have boundaries but they do not want this to go to the news. Asked they work really hard to save this. Be thinking for Jefferson County people move here for a reason. Would like to ask them a simple yes or no if where they live now someone bought a place near you to these kinds of conditions would you like it? Commissioner Martinez said no. Commissioner Farnsworth said no. Commissioner Hancock no but they if they were already there that is one thing. Bob said what they were when they were already there is different than what they are now.

8:08:11 PM Tom supports that anyone that has a business if they buy a property built in 1972. Buy a house and apply to add on a shop or add different fixtures guarantee that he would be required to bring this up to current code. If this was running the same as 1972. Scott you are on the wrong side of this. Commissioner Hancock said he is looking at this from both sides. They are only looking at one side. They have to be independent. As commissioners they have to look at this independent. Why Commissioner Martinez said that they have to look at all aspects before they make a decision. Have to look at all of this before they make them change their whole operation. Looking at this from a standpoint of being independent. Want to look at this to be fair to both parties. Tom said when they were here last year took to heart Commissioner Hancock words said "I'm sure if you call him they will be happy to work with you." Are a year down the road County has done nothing and neither has Challenger. As a business owner he wants Challenger to be successful. Have no desire to put them out of business. Do believe that they have ceased to be a good neighbor. Selling this out to a bigger facility Bailey who has facilities up and down the West Coast. Presenting this as a plant they can run 24/7. When looking at the permits it shows they are warehouses if you go into these buildings they all have manufacturing equipment in them. Judge would side that this is a heavy industrial application.

8:12:51 PM Ward comments this whole concept of grandfathering work for the oil and gas industry. Cannot comprehend if they had a refinery they are going to expand and increase the hours of operations but it is fine because they were there first. That would not fly in any other industry. Other is the statute the remedy says any willful violation is a misdemeanor. Hard to comprehend that a former commissioner would not know this and willfully did this. Also the new expansion was done with no regard to the noise and the lights were not put shining in were put shining out. If that is not willful this is a horrible design. With the lack of conversations he is not optimistic.

8:14:11 PM Jay said code is written to protect them. Is a former cop and dealt with codes all the time. Read this several times and believe this is a wonderful document. Have this in place for situations like this. If they would follow the law then life would be wonderful. Appreciates their time and look forward to the next meeting.

8:14:56 PM Chairman Farnsworth said they held this meeting for this since some could not come during the day. Have heard them and will get on this. Apologize for the year delay will see what they can do to help them with these issues. The meeting on the 7th will be during the day. Chairman Farnsworth said the agenda will be on the website and they can review what time this will be on.

8:16:56 PM **Motion by Commissioner Martinez to adjourn at 8:17. Second by Commissioner Hancock. All in favor – aye. Motion passed.**

Chairman of the Board

Date

Clerk of the Board

Date

County Clerk

Date