

FRANKLIN COUNTY COMMISSIONERS

July 14, 2014 8:00 a.m.

Present: Chairman Dirk Bowles, Commissioner Boyd Burbank, Commissioner Scott Workman, Attorney Vic Pearson and Clerk Shauna Geddes

1. **PLEDGE OF ALLEGIANCE**

2. **AGENDA**—Boyd made the motion to add mapping, custodial work and bids for an asphalt paver to the agenda and approve as posted. Scott made the second and it passed unanimously.

3. **APPROVAL OF MINUTES**— Scott made a motion to approve the minutes of June 23rd. Dirk second. Motion passed unanimously.

4. **PAYMENT OF BILLS**—Scott motioned to pay the bills as submitted. Boyd seconded the motion. All voted in favor.

5. **COUNTY BUSINESS**

Beer License/Sporty's Pizza- A motion to approve the beer, to be consumed on premise and wine by the drink licenses for Sporty's Pizza was made by Boyd with a second by Scott. All voted in favor.

Rudd & Co/Auditor Contract—Scott made the motion to authorize Dirk to sign the contract with Rudd & Company to do the outside audit. The contract is for 3 years and represents a \$750 increase from this year. Boyd seconded the motion and it was carried unanimously.

Summer Party-The summer party for employees needs to be scheduled in August. It was suggested that a party at the bowling alley would be fun.

Trailer Removal—There were two bids to remove the old trailer house, which is owned by the county and is behind radio shack. One from Michael Fortune was \$2,000 and the other from Mike Lower was \$1750. The Commissioners authorized to have Mike Lower remove the trailer.

Calendar Events –

July 17- Cub River Irrigation Dist Open House – Mapleton Church
7-10 p.m.

July 17- Airport meeting with FAA representative Steve Eckenstam
1:30 p.m. at the Airport

6. **MIKE FRANCOM CLASS 1 SUBDIVISION/BRYAN ALLEN**—This is a 1-lot subdivision on Riverdale dugway (3200 North). It is 3 acres with an existing house and well. It has a deeded easement around another lot, and also a prescriptive easement. The Planning & Zoning Commission approved the lot. Scott made a motion to accept the Mike Francom Class 1 Subdivision. It passed unanimously after a second by Boyd.

7. **JOHN KING ESTATES #1**—4 1-acre lots along 3200 South and 5th East. All lots will be required to hook up to Fairview Water. Each lot will require a cap &

fill septic system according to the Health District evaluation. A letter stating these requirements will be recorded with the plat. Planning & Zoning has reviewed and passed this subdivision unanimously. A motion was made by Boyd to approve the John King Estates #1, which was seconded by Scott and passed unanimously.

8. **JOHN KING ESTATES #2** – This is a 1 lot 4+acre subdivision. According to the Health Dept. study this septic system will have to be a cap & fill. Owner may choose to either hook up to a water system or drill a well. Planning & Zoning passed this subdivision. Scott made a motion to accept the John King Estates #2 Subdivision. Boyd seconded it. All voted in favor.
9. **SETBACK VARIANCE**—Doug and Bekka Leffler would like to build a covering for their horse trailer on Cub River Road. It would require excavation and a retaining wall to achieve the 80 feet required setback. They currently park the trailer on a cement pad which is 42 ft from center. Boyd is concerned about the liability if the snowplow damages the trailer. The P&Z approved the setback. Boyd made the motion to approve the variance for the setback. Scott seconded the motion. All voted in favor.
10. **ELECTION VOTING MACHINE BIDS/CAMILLE LARSEN**—Election Deputy Camille Larsen presented two bids for new voting equipment. There are no longer supplies and support for the punch-card system. Franklin County has \$67,000 in the Democracy fund held at the State which can be used for new voting equipment. The bid from ES&S was for \$110,320.00 for voting machines which are precinct counters. And annual maintenance & support fees of \$6,700. HART's bid was for \$183,903.00 for central count and 18 DRE's which would replace the AutoMarks. The annual maintenance and support would be \$12,420.00 annually. Camille recommended to go with HART. This would save storage space and eliminate the AutoMarks; which cost about 4,000 to program and maintain each election. Boyd made the motion to award the bid to HART and give Camille the authority to finance to purchase. Scott seconded the motion and all voted in favor.
11. **MINK CREEK ROAD**—Scott read the Findings of Fact, Conclusions of Law and Order in the matter of a road abandonment of Mink Creek Road. The Road in concern begins 2.1 miles northeasterly from the intersection of Highway36 and continues approximately 1 mile further to the "Old Barn of Benson Ranch." It concluded that it is not in the public's best interest to abandon the road. Boyd made the motion to accept the Findings of Fact, Conclusions of Law and Order as presented to the Board. Motion carried unanimously after a second by Scott. The Barbers now may appeal or continue discussions concerning the whole road all the way to the forest ground.

New discussion began concerning how to treat the whole road from the turn-off all the way to the forest ground. It was discussed about opening the road to only foot and horse traffic, restricting vehicle use. There could also be limited winter use. It was discussed about the permanency and the management of such a proposal.

12. **NOISE ORDINANCE/SHERIFF FRYAR**—Sheriff Fryar would like an ordinance dealing with disturbing the peace. There have been several complaints, but he can only warn and not issue citations for excessive noise. This will be put on the agenda for next meeting.
13. **ROCK WALL/SHERIFF FRYAR**—The County acquired a Climbing Rock Wall. The concern is liability. The cables must be replaced each year to ensure safety. There are waiver forms, but does not guarantee holding the county blameless if something should happen. The Commissioners do not want the county to take on the liability. The Sheriff should sell the wall when he can.

Sheriff Fryar also wanted that the State has a contract to inspect all 911 Centers over the next year.

14. **MAPPING/KAREN HATCH**—A bid was obtained for Insight to come in and catch up the mapping for Spillman. It was \$24,200. This would only cover the Sheriff's department. Or an intern could be hired from Utah State University to assist Adin for about \$20,000. This information would benefit the whole county. Karen will apply for a grant.
15. **CUSTODIAL WORK**--The Board would like to change the way the custodial work is being done. Two or Three part-time employees would cover the work instead of a contract. This would begin October 1. John is to put an ad in the paper.
16. **AMBULANCE GRANT/MARK GILBERT**—A grant for a new ambulance has been applied for. \$87,000 will come from the state grant. Mark would like to carry over any fund balance and then finance the rest which would be about \$40,000. The Commissioners gave Mark the go-ahead.

Meeting recessed at 3:00 p.m. It will reconvene on Wednesday, July 16, 8:00 a.m.

Board of Equalization

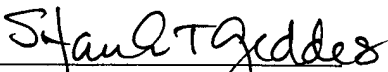
At 3:00 p.m. the Commissioners met as the Board of Equalization. In attendance were Commissioners Dirk Bowles, Scott Workman and Boyd Burbank. Also in attendance was Prosecuting Attorney Vic Pearson, Assessor Jase Cundick, Deputy Assessor Lynn Sant and Clerk Shauna Geddes.

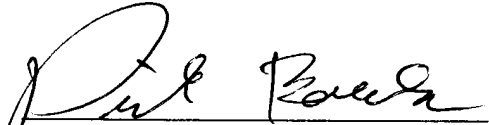
1. **GERI NIEDERHAUSER—#MH07337** - 1657 South 600 West, Preston. Geri would like the BOE to re-assess the value of her manufactured home to \$500. (scrap metal value). It is not used anymore. She has another manufactured home #MH07336 valued at 490 at the same location. Boyd motioned to reduce

the value of #MH07337 to \$500. And put the other manufactured home at the same value #MH07336 to \$500. Scott seconded the motion. All voted in favor.

2. **LDS CHURCH**—A letter from the LDS Church requesting their properties to be exempted. The question was raised about properties that are leased; and if money is made where is that money going? Scott made the motion to approve the exemptions as submitted by the Church of Jesus Christ of Latter-day Saints. Boyd seconded the motion. All voted in favor.
3. **DIANE HARDY #MH07159**-- Diane is asking for the value of her manufactured home to be removed. The trailer has been torn down. She admits that she did not attempt to appeal with Jase during the appropriate time. Scott made the motion to reduce the value of the manufactured home #MH07159 to zero. The motion carried unanimously after a second from Boyd.

BOE was adjourned at 3:35 p.m.


Attest, Shauna Geddes


Dirk Bowles, Chair

BEFORE THE BOARD OF FRANKLIN COUNTY COMMISSIONERS

IN THE MATTER OF A ROAD
ABANDONMENT OF MINK CREEK ROAD,
BEGINNING 2.1 MILES NORTHEASTERLY
FROM THE INTERSECTION OF HIGHWAY
36 (AT THE BUS TURNAROUND) AND
ENDING AT THE "BARN OF THE OLD
BENSON RANCH" APPROXIMATELY 1
MILE FURTHER UP THE ROAD

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER**

THIS MATTER having come before the Franklin County Board of County Commissioners ("Board"), on April 28, 2014, pursuant to Idaho Code § 40-203.

Legal Notice was given and published in the Preston Citizen on March 26, 2014 and April 16, 2014 for a public hearing before the Franklin County Board of County Commissioners to determine whether to abandon Mink Creek Road, beginning 2.1 Miles from Northeasterly from the intersection of Highway 36 (at the bus turnaround) and ending at the "barn at the old Benson Ranch" approximately 1 mile further up the road. A public hearing was held April 28, 2014, with all three Board members present. The hearing was held pursuant to the Idaho Open Meeting Laws and Idaho Code § 40-203.

This Board heard testimony and reviewed the information found in the record, and deliberated on those issues in light of the applicable governing law. A decision was not issued that day given the amount of evidence to be considered but is now finalized by these Findings of Facts and Conclusions of Law.

FINDING OF FACT AND CONCLUSIONS OF LAW

The Board hereby finds the following facts and conclusions of law to be of particular import in arriving at its decision in regards to the request for abandonment of Mink Creek Road, beginning 2.1 Miles from Northeasterly from the intersection of Highway 36 (at the bus turnaround) and ending at the "barn at the old Benson Ranch" approximately 1 mile further up the road:

1. The Board initially finds that the oral Petition conformed to the requirements of Idaho Code § 40-203 since it was brought by Alan Barber, a property-holder within Franklin County, and person desiring to vacate Mink Creek Road, beginning 2.1 Miles from Northeasterly from the intersection of Highway 36 (at the bus turnaround) and ending at the "barn at the old Benson Ranch" approximately 1 mile further up the road and the petitioner agreed to pay a reasonable fee to cover the costs of the proceedings.

2. The Board finds that notice of the hearing was appropriate under Idaho Code § 40-203 since the Board establishing a hearing date of April 28, 2014 on the proposed abandonment and vacation of the road in question. The Board also prepared a public notice stating their intention to hold a public hearing to consider the proposed abandonment and vacation which was made available to the public thirty (30) days prior to the hearing. The Board mailed notice to all known owners and operators of underground facilities that lie within the highway. The Board also mailed notice of the proposed abandonment thirty (30) days prior to the scheduled hearing to the owners of record of land abutting the portion of the highway proposed to be abandoned. Additionally, notice of the hearing was published on March 26, 2014 and April 16, 2014, in the Preston Citizen weekly newspaper with the last notice published at least five (5) days

and not more than twenty-one (21) days before the hearing.

3. At the hearing on April 28, 2014, the Board accepted testimony of several community members both for and against abandonment. In the current matter before the Board, it is our belief that the abandonment of Mink Creek Road, beginning 2.1 Miles from Northeasterly from the intersection of Highway 36 (at the bus turnaround) and ending at the "barn at the old Benson Ranch" approximately 1 mile further up the road is not in the best interest of the public.

4. The applicable provisions to the abandonment of a highway of public right-of-way are found in Idaho Code § 40-203. Under this section, the Board must decide whether the "abandonment and vacation of the highway of public right-of-way is in the public interest of the highway jurisdiction affected by the abandonment or vacation." In the current case, it is our belief that the abandonment of the above mentioned road is not in the best interest of the public due to the fact that the road has historical value in the area, there are Franklin County maps showing this road gives access to Forest Service public land, Mink Creek/ Strawberry Water Association has used the road regularly to test, control and maintain the water provided to its users, the Rocky Ditch canal company requires access to the area for maintainance/operation of the canal, the road in question has historically been open for access to public lands and general public use, Franklin County has periodically maintained the road in question over the years but such work has been minimized due to a gate being placed across the road with illegal no trespassing signage and locks, many members of the public desire to have their historic access restored to public ground over the road in question.

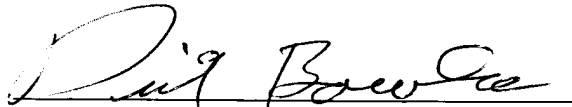
CONCLUSION

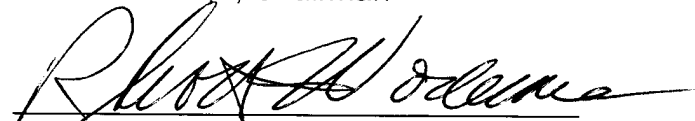
In conclusion, based upon the individual Findings of Fact and Conclusions of Law noted above, this Board denies the abandonment of Mink Creek Road, beginning 2.1 Miles from Northeasterly from the intersection of Highway 36 (at the bus turnaround) and ending at the "barn at the old Benson Ranch" approximately 1 mile further up the road, we so find on this 14th Day of July, 2014. The Board does not find it to be in the public's interest to abandon said road from the County Road System.

Any aggrieved party may appeal this decision of the Board to the Sixth Judicial District Court in Franklin County within twenty-eight (28) days of the recording of this Order.

WITNESS OUR HANDS AFFIXED THIS 14th DAY OF July, 2014.


BOARD OF FRANKLIN COUNTY COMMISSIONERS


DIRK BOWLES, Chairman


SCOTT WORKMAN, Commissioner


BOYD BURBANK, Commissioner

ATTEST:


SHAUNA GEDDES, CLERK