

**OFFICIAL SUMMARY PROCEEDINGS  
OF THE BOARD OF COUNTY COMMISSIONERS, TETON COUNTY, WYOMING**

The Teton County Board of Commissioners met in regular session on **July 17, 2018** in the Commissioners Chambers located at 200 S. Willow in Jackson. The meeting was called to order at 9:00am and the Pledge of Allegiance was recited.

**ROLL CALL**

County Commission: Mark Newcomb Chair, Natalia Macker Vice-Chair, Greg Epstein, Smokey Rhea, and Paul Vogelheim were present.

**MINUTES**

A motion was made by Commissioner Macker and seconded by Commissioner Rhea to approve the **7/2/18, 7/3/18, and 7/9/18** minutes. Chair Newcomb called for the vote. The vote showed all in favor and the motion carried.

**ADOPTION OF AGENDA**

Hamilton Smith, Senior Planner, presented to the Board for consideration to postpone Matters from Planning #3 VAR2017-0005 and #4 VAR2018-0001 to the September 4, 2018 BCC meeting per a request from the applicant. Discussion was held between the Board and staff regarding violations of the fencing LDRs and the possibility of setting an abatement hearing.

**TO POSTPONE:** MFP #3 & 4 – VAR2017-0005 AND VAR2018-0001 FISH CREEK INVESTMENTS, LLC to the September 4, 2018 BCC Meeting

A motion was made by Commissioner Macker and seconded by Commissioner Epstein to postpone Items #3 and #4, which are VAR2017-005 and VAR2018-0001 to the September 4, 2018 meeting. Chair Newcomb called for the vote. The vote showed all in favor and the motion carried.

A motion was made by Commissioner Rhea and seconded by Commissioner Macker to adopt today's agenda with the changes as presented. Chair Newcomb called for the vote. The vote showed all in favor and the motion carried.

**CONSENT AGENDA**

A motion was made by Commissioner Vogelheim and seconded by Commissioner Rhea to place the following Matters from Staff on a Consent Agenda:

4. Consideration of Mental Health Treatment Contract for Treatment Court
5. Consideration of Substance Abuse Treatment Contract for Treatment Court
6. Consideration of Drug Testing Contract (UA Collection Services) for Treatment Court
7. Consideration of a Grant Application to the Wyoming Health Council for Funding of Family Planning Services at the Teton County Health Department
8. Consideration of a New Contract with National Forest Service for Cost Recovery During Training or Planned (Non-Emergent) Controlled Fires
9. Consideration of Contract with Bruehler Enterprises for Phase 2 of Flooring Project at the Health Department
10. Consideration of Grove Phase 3 Schedule Change Order

Chair Newcomb called for the vote. The vote showed all in favor and the motion carried.

A motion was made by Commissioner Epstein and seconded by Commissioner Macker to approve the items on the Consent Agenda with the motion as stated in their respective staff report. Chair Newcomb called for the vote. The vote showed all in favor and the motion carried.

**MATTERS FROM COMMISSION AND STAFF:**

**4. Consideration of Mental Health Treatment Contract for Treatment Court**

To approve the FY2019 mental health treatment contract with the Jackson Hole Community Counseling Center in the amount of \$11, 400.

**5. Consideration of Substance Abuse Treatment Contract for Treatment Court**

To approve the FY2019 substance abuse treatment contract with the Curran-Seeley Foundation in the amount of \$39,232.

**6. Consideration of Drug Testing Contract (UA Collection Services) for Treatment Court**

To approve the FY2019 contract for UA collection services with Cody Hostetter in the amount of \$7,800.

**7. Consideration of a Grant Application to the Wyoming Health Council for Funding of Family Planning Services at the Teton County Health Department**

To approve the submission of the competitive grant application and associated agreements and assurances to the Wyoming Health Council for Family Planning Services.

**8. Consideration of a New Contract with National Forest Service for Cost Recovery During Training or Planned (Non-Emergent) Controlled Fires**

To approve the Fire Supplemental Project Agreement between Jackson Hole Fire/EMS and USDA, Forest Service, Bridger-Teton National Forest.

## **9. Consideration of Contract with Bruehler Enterprises for Phase 2 of Flooring Project at the Health Department**

To approve the awarding of the contract for Public Health Flooring to Buehler Enterprises in the amount of \$28,833.00.

## **10. Consideration of Grove Phase 3 Schedule Change Order**

To approve Change Order No. 1 changing substantial completion to September 15, 2018 and final payment to October 31, 2018.

### **DIRECT CORRESPONDENCE**

1. Alex Gambal 6/26/2018 email regarding SRR/Giltner Events
2. Marla Gault 6/26/2018 email regarding Fire in the Mountains Music Festival
3. Federal Emergency Management Agency 6/19/2018 letter regarding Flood Insurance Rate Map and Flood Insurance Study
4. Federal Emergency Management Agency 6/20/2018 letter regarding Flood Insurance Rate Map and Flood Insurance Study
5. Hamilton Smith, Planning & Development 6/27/2018 email regarding Fish Creek Investments LLC Fence Variance
6. Ron Engelhart 6/27/2018 email regarding Property Tax Increase
7. Nancy Stirn 6/27/2018 email regarding WYDOT MOU with Park Service
8. Benji Sinclair 6/29/2018 email regarding Wilderness Study Areas
9. Wyoming T2 Center 6/29/2018 letter regarding Wyoming Rural Road Safety Program
10. Martin Family, LLC 6/29/2018 regarding Statement of Claim for Reimbursement - Hog Island ISD
11. Skye Schell, Jackson Hole Conservation Alliance 6/29/2018 email regarding Housing Mitigation Rates
12. Tammy Clark 6/30/2018 email regarding Hog Island Dissolution
13. Renee Gira 7/1/2018 email regarding Fire in the Mountains Music Festival
14. Michele Gammer 7/2/2018 email regarding Tribal Trails Project Charter
15. Ed Gannon 7/2/2018 email regarding Housing Mitigation
16. Larry Pardee, Town of Jackson 6/19/2018 letter regarding Planning Director Agreement
17. Sherry Daigle, County Clerk 7/2/2018 email regarding Hog Island Dissolution/Claim
18. Joan Anzelmo 7/2/2018 email regarding Tribal Trails Project Charter
19. Sherry Daigle, County Clerk 7/2/2018 email regarding Hog Island Dissolution/Claim
20. John Culbertson 7/2/2018 email regarding Hog Island Dissolution
21. Mary Antrobus, Deputy County Clerk 7/2/2018 email regarding Hog Island Dissolution/Claim
22. Greg Herrick 7/3/2018 email regarding JH Airport / FBO
23. AJ DeRosa 7/3/2018 email regarding Wilson Boat Ramp
24. Norris Brown 7/3/2018 regarding Lennox / Judge Application
25. Andrea Riniker 7/5/2018 email regarding Fire in the Mountains Music Festival
26. Brian Schilling, Pathways 7/5/2018 email regarding Wilson Wayfinding Signs and Sharrows
27. Melissa Shinkle, County Assessor 7/8/2018 email regarding 2018 Abstract Certification
28. Brad Nielson 7/8/2018 email regarding Wildlife Crossings
29. Jared Baecker, Snake River Fund 7/9/2018 email regarding Wilson Boat Ramp
30. Jared Baecker, Snake River Fund 7/9/2018 email regarding Wilson Boat Ramp - Emergency Access

### **PUBLIC COMMENT**

Public comment was given by Marc Hirschfield regarding the variance requests by Fish Creek Investments, LLC. Public comment was given by Leah Zamesnik regarding the variance requests by Fish Creek Investments, LLC.

### **MATTERS FROM COMMISSION AND STAFF:**

#### **1. Consideration of Approving Tribal Trails Road Stakeholder Committee Application Form**

Sean O'Malley, Director of Public Works, presented to the Board for consideration of approval the Tribal Trails Road Stakeholder Committee application form, in accordance with the Tribal Trails Road Project Charter and the Integrated Transportation Plan and to consider directing staff to advertise for people interested in serving on the Stakeholder Committee. The Stakeholder Committee shall not have formal approval authority, shall not make decisions by voting and shall not have elected officials. In order to hear from a broad range of interests, stakeholders may include representatives from Tribal Trails area neighborhoods; non-motorized and transit interest; wildlife and environmental advocates; local business, tourism, and public art interests; a citizen at large, and representatives from public and private schools. Committee members shall be appointed by the Board of County Commissioners.

Corrections to the staff report included the note that it should be Tribal Trail not Tribal Trails. Mr. O'Malley, Amy Ramage, and Billy Kirk have been working on how to get the word out about the applications. A group of citizens who have been quite engaged in the Transportation area who will be emailed individually.

Discussion between the Board and staff included staff involved with committee and who will be Chair, looking at using a facilitator instead of Chairman, project team includes County Engineer and WYDOT Planner, South Park representative, limited number of committee members, change title to Tribal Trail Road Stakeholder Advisory Committee, adjust question #6 to include an end date, and ability to appoint

There was no public comment.

A motion was made by Commissioner Vogelheim and seconded by Commissioner Rhea to approve the Tribal Trail Stakeholder Committee application form and direct staff to advertise for people interested in serving on the Stakeholder Committee with three changes or amendments:

1. All references to Tribal Trails be changed to Tribal Trail;
2. That the reference be made to the Tribal Trail Stakeholder Advisory Committee; and
3. That there be an end date on Question #6 of December 2019.

Chair Newcomb called for the vote. The vote showed all in favor and the motion carried.

## **2. Consideration of Change Order #4 to Contract with Montana Civil Contractors**

Heather Overholser, Superintendent of Solid Waste and Recycling, presented to the Board for consideration of approval Change Order #4 to the County's contract with Montana Civil Contractors for the waste excavation project at the Horsethief Canyon Landfill. The scope of work changes in Change Order #4 are a result of:

- The revised grading/storm water plan, which was created to accommodate site and operational configuration improvements at the Horsethief Canyon solid waste facility;
- Additional waste excavation to ensure the removal of all landfilled waste from the County property;
- The necessity to remove unsuitable soils near the transfer facility; and
- The use of asphalt millings for surfacing two operations pads.

With the addition of Change Order #4 scope of work items, Montana Civil anticipates completion of the project by October 2018.

Discussion between the Board and staff included scope of project and future use of the county site, critical timing, mobilization costs, and per unit cost was competitively bid.

There was no public comment.

A motion was made by Commissioner Epstein and seconded by Commissioner Vogelheim to approve Change Order #4 to the contract with Montana Civil Contractors for additional waste excavation, grading, storm water controls, and placement of asphalt millings, with a lump sum and unit cost not-to-exceed total of \$4,859,853.58, which in an increase of \$708,096.28 from the total contract amount approved in Change Order #3. Chair Newcomb called for the vote. The vote showed all in favor and the motion carried.

## **3. Consideration of a Memorandum of Understanding and Funds Transfer Agreement with the Federal Highway Administration (FHWA) for the Federal Lands Access Program (FLAP) Gros Ventre Road Project**

Amy Ramage, Engineering Manager, presented to the Board for consideration of authorizing a Memorandum of Agreement and Funds Transfer Agreement with the Federal Highway Administration (FHWA) for the Federal Lands Access Program (FLAP) Gros Ventre Road Project (WY FLAP 30400(1)) for engineering and construction of the Gros Ventre Road project and authorize payment of \$461,000 for this work. The Gros Ventre Road project is a two-lane, resurfacing, restoration, and rehabilitation project. The proposed route is 3.75 miles long, starting at the border of the Grand Teton National Park and the Bridger-Teton National Forest at approximately MP 2.2 on of Gros Ventre Road, and running east to the Atherton Campground intersection. The route is primarily used as recreational access to the Bridge-Teton National Forest, but also serves as the only access to 20 homes and several seasonal guest ranches. The application proposed subbase stabilization, reconstruction of base course and asphalt pavement, replacement of cross culverts, widened shoulders as needed, and restoration of roadside ditches. The FHWA is primarily responsible for the design, bidding, and construction administration. The \$461,000 is the Teton County Cash Match.

Discussion between the Board and staff included other discussion about an ISD being formed for long term maintenance of the road, Forest Service would need to join the ISD so everything is contiguous, other future steps: county will need to adopt 3.75 mile segment of the Gros Ventre Road as a county road, agree to a Schedule A maintenance agreement with the BTNF, and/or sign a Highway Easement Deed prepared by the FHWA, Schedule A gets negotiated every few years, ISD would be a partner and could be mentioned in the Schedule A, offered the grant but don't have to accept it, state land is within boundary of GTNP, responsibility of plowing road, and funding and county match - \$30,000 by February 2019 (included in FY19 budget) and \$420,000 in FY2020.

There was no public comment.

A motion was made by Commissioner Vogelheim and seconded by Commissioner Epstein to authorize the Memorandum of Agreement and Funds transfer Agreement between Teton County and the Federal Highway Administration and authorize payment of \$461,000 to the Federal Highway Administration for the Gros Ventre Road Project. Chair Newcomb called for the vote. The vote showed all in favor and the motion carried.

The meeting was recessed at 10:06am and reconvened at 10:13am.

## **MATTERS FROM PLANNING & DEVELOPMENT**

1. Findings of Fact and Conclusions of Law: VAR2017-0004 – Mahin, Thomas P.

Erin Weisman, Deputy County Attorney, presented to the Board for consideration of approval the Findings of Fact and Conclusions of Law and Order granting approval of a Variance for Thomas P. Mahin located at 3850 W. Holly Drive. This is processed as a variance but is a deviation from the Teton Village Master Plan.

It was approved with three conditions of approval: a) Prior to issuing any physical development permits, the unpermitted pool maintenance building within the side setback near the north property boundary shall be brought into compliance with the required 20-foot side setback by removal or relocation; b) Temporary construction fencing shall be installed along the western property boundary in the vicinity of the project area to prevent encroachment onto USFS property; and c) Prior to issuance of a Certificate of Occupancy the applicant shall provide documentation that the adjacent landscape area on USFS property to the west has been revegetated in accordance with the plans submitted by the applicant.

Discussion between the Board and staff included changes are not permitted to the motion at this time, ramifications of not approving the Findings of Fact Conclusions of Law reconsideration of the motion must be done at the next BCC meeting (voucher or regular),

Public comment was given by Pat Mahin and Paul D'Amours.

Discussion between the Board and staff included meeting with the applicant and neighbor (attorney Paul D'Amours as agent) to see if there is any way to work through and find a solution, Ms. Weisman has been actively engaged in talking with the applicant and the neighbor's attorney.

A motion was made by Commissioner Vogelheim and seconded by Commissioner Macker to approve the Findings of Fact, Conclusions of Law and Order Granting Approval of a Variance, VAR2017-0004 as presented. Chair Newcomb called for the vote. The vote showed 4-1 in favor with Commissioner Epstein opposed and the motion carried.

2. Findings of Fact and Conclusions of Law: VAR2018-0002 – Evans, Monty Scott

Erin Weisman, Deputy County Attorney, presented to the Board for consideration of approval the Findings of Fact and Conclusions of Law and Order granting approval of a Variance, VAR2018-0002 for Monty Scott Evans located at 130 East Evans Road.

the variance was approved with one condition of approval: 1) A geotechnical report is required at the time of the Grading and Erosion Control and Building permit applications.

Discussion between the Board and staff included

There was no public comment.

A motion was made by Commissioner Macker and seconded by Commissioner Vogelheim to approve the Findings of Fact, Conclusions of Law and Order Granting Approval of a Variance, VAR2018-0002. Chair Newcomb called for the vote. The vote showed all in favor and the motion carried.

3. Applicant: TETON COUNTY  
Presenter: Roby Hurley  
Permit No.: AMD2018-0001  
Request: Amend Sections 5.2.1, 5.3.2, 6.1.12, and 8.2.2, and add Section 5.1.6 of the Land Development Regulations, pursuant to Section 8.7.1, LDR Text Amendments, to update the requirements for manmade ponds and berms. Teton County has complied with the requirements of Wyoming State Statute §9-5-304 pertaining to the Wyoming Regulatory Takings Act.  
Location: Countywide

Roby Hurley, Principal Planner, presented to the Board for consideration of approval the Land Development Regulations Amendment of Manmade Landforms. Planning staff is asking the Board to adopt the proposed new Section 5.1.6 Manmade Features and amend Sections 5.2.1.D.2. Applicability of NRO Standards, NC-TC Zoned Lands, 5.3.2.G.5.b. Scenic Resources Overlay, Foreground Standards, 5.7.2.B.8. Grading Standards, 6.1.12.F.2.d Temporary Gravel Extraction and Processing, Reclamation Standards and 8.2.2.B.1.c Environmental Analysis, Exemptions of the Teton County Land Development Regulations (LDRs), pursuant to Section 8.7.1, LDR Text Amendments, to allow ponds and berms under strict limitations and make other related changes throughout the LDRs (as shown below).

For clarification, the black type is existing language, red type is proposed language, and blue type is changes by Planning Commission, legal staff, and planning staff.

On October 10, 2017 the Board of County Commissioners approved a 90-day freeze resolution (Resolution #17- 037) for ponds and berms. On December 19, 2017 the Board of County Commissioners approved a freeze resolution expiring August 8, 2018 (MSC2017-0058 and Resolution #18-002) for ponds and berms. The freeze halted all grading permits for new construction of berms and ponds. The purpose of the temporary freeze was to allow the Planning and Engineering Departments time to work on regulations that clarify and/or modify the current Land Development Regulations (LDRs) that regulate ponds and berms in order to better meet the intent of the Comprehensive Plan. The freeze resolution set an end date of August 8, 2018 or until the Natural Resources Update is complete, whichever comes first. Realizing that the Natural Resources Update will not be completed by the August 8 expiration date, manmade waterbodies and landforms are being proposed as a standalone amendment.

### AMD2018-0001: Ponds and Berms Requirements

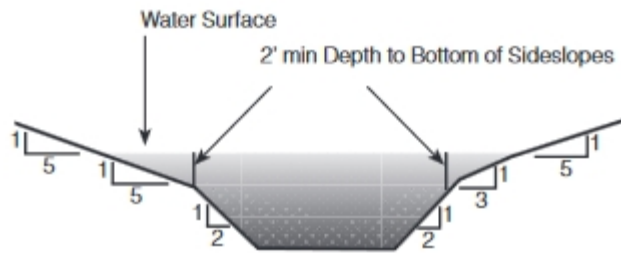
Public Review Draft: May 23 with revisions June 24 and July 10, 2018

Below are the proposed changes to the LDRs to regulate Ponds and Berms. The overall organizational approach is to create a new Section (5.1.6) that governs the natural resource and scenic considerations of manmade landforms, while leaving the grading, erosion, and stormwater standards in Division 5.7 and the gravel extraction standards in Section 6.1.12. Existing text that was reorganized is presented below in black with reference to its current location in the LDRs. New text is presented as red, underline. Existing text proposed to be deleted is presented as red, strikethrough. The intent of this representation is to highlight what is new instead of highlighting the reorganization.

#### 3.6 Manmade Features

- A. Purpose. The purpose of this section is to establish design standards for the creation of manmade waterbodies, landforms, and other habitat features in order to ensure that manmade features:
1. Preserve and enhance water quality (Principle 1.2 of the Comprehensive Plan);
  2. Protect wildlife from the impacts of development (Principle 1.1 of the Comprehensive Plan); and
  3. Appear to be naturally occurring and are consistent with surrounding features. (Principle 1.3 of the Comprehensive Plan).
- B. Applicability. This Section is applicable to any manmade feature, whether proposed voluntarily or required by these LDRs, and regardless of whether creation of the feature requires a physical development permit.
1. This Section shall apply to new features and alterations to existing features, whether the existing features are natural or manmade.
  2. Alteration of an existing manmade feature that does not meet the standards of this Section shall be subject to the requirement of Section. 1.9.2. Nonconforming Physical Development.
  3. In addition to this Section, all standards of the LDRs pertaining to gravel extraction (Section 6.1.9.F or 6.1.12.E) and grading, erosion control, and stormwater management (Division 5.7) shall apply.
- C. Manmade Waterbodies.

1. Intent. The intent of this subsection is to preserve and enhance water quality and protect wildlife when a manmade waterbody is created.
2. Waterbody Purpose. A manmade waterbody shall serve at least one of the following purposes or meet the standards for an ornamental water feature.
  - a. Agriculture. The manmade waterbody is part of an agricultural operation.
  - b. Fire Suppression. The manmade waterbody is approved by the Fire Marshal as necessary and required for fire suppression.
  - c. Habitat. The manmade waterbody provides wildlife habitat pursuant to the standards of this Section.
3. All Manmade Waterbodies. The following standards shall apply to all manmade waterbodies.
  - a. Airport Proximity. No manmade waterbody shall be located within 10,000 feet of the Jackson Hole Airport runway.
  - b. Location. All manmade waterbodies shall meet all-natural resource setbacks and the site development setbacks for the site.
4. Ornamental Water Feature. In addition to the standards applicable to all manmade waterbodies, an ornamental water feature is subject to the following standards.
  - a. The entire feature shall be within 50 feet of a structure on the site.
  - b. The feature shall be a maximum of 2 feet deep.
  - c. The area of the feature shall be a maximum of 1,000 square feet
  - d. The feature shall be lined.
  - e. The feature shall not outfall into a river, stream, or ditch.
  - f. The feature shall not utilize an aerator or circulator.
  - g. The area of the feature shall be considered site development unless the pond is used to harvest rainwater for reuse on site as irrigation.
5. Ponds. In addition to the standards applicable to all manmade waterbodies, manmade ponds shall be subject to the following standards.
  - a. Exempt Ponds. The following ponds are exempt from the standards specific to ponds.
    - i. Agricultural Pond (formerly Section 6.1.12.F.2.a). A pond for agricultural purposes that is part of an agricultural operation meeting the standards for exemption in Section 6.1.3.B. is exempt from the standards of this Section.
    - ii. Wildlife Pond on a Vacant Site. A pond on a site with no physical development or use, which is verified by the Planning Director to have the sole purpose of wildlife habitat.
    - iii. Stormwater Management Pond on a Vacant Site. A pond on a site with no physical development or use, which is verified by the County Engineer to have the sole purpose of stormwater management.
  - b. Location. The pond shall be located at least 50 feet from any structure. Expansion of a nonconforming structure made nonconforming by this section is subject to the following standards:
    - a) An addition to a nonconforming structure that cannot be located outside of the 50-foot setback shall not further encroach on the setback as defined by the closest distance between the structure and the manmade waterbody (nonconforming buffer).
    - b) Applicant shall mitigate impacts in the nonconforming buffer at a ratio of 2:1 to the area of the expansion.
  - c. No Surface Outfall. The pond shall not outfall into a river, stream, or ditch.
  - d. Liner. The pond shall be lined.
  - e. Aerators Prohibited. The pond shall not utilize an aerator or circulator unless it is on a site with no residential use and is verified by the Wyoming Game and Fish to have the sole purpose of wildlife habitat.
  - f. Buffer Establishment
    - i. A 50-foot buffer of native vegetation shall be planted along a minimum 75% of the shoreline for the purpose of protecting the water quality and the habitat value of the pond. A maximum of 25% of the established buffer may be managed (i.e. mowed) but must remain native.
  - g. Pond Side Slopes.
    - i. 15 Foot Shoreline Transition. The slope from the shoreline to upland areas shall be no steeper than 5 (horizontal): 1 (vertical) for at least 15 feet from the ordinary highwater mark shore toward the upland area.
    - ii. First 2 Feet of Pond Depth. Side slopes into the pond necessary to reach a depth of 2 feet shall be designed and maintained to the following standards.
      - a) At least 50% of the shoreline length of the pond and any island shall have side slopes that are no steeper than 5:1; the Planning Director may waive or alter this requirement, based upon there being not reasonable expectation that the pond will be used by waterfowl and upon demonstration that the design shall not pose a safety hazard.
      - b) All other side slopes shall be no steeper than 3:1.
      - c) Side slopes shall receive a minimum of 6 inches of topsoil.
    - iii. Deeper Than 2 Feet. At a depth of greater than 2 feet, side slopes shall be no steeper than 2:1.



- iv. Supplemental Water Supply. A supplemental water supply, e.g., water from the Snake River or any other watercourse and conveyed irrigation ditches, shall be developed, if necessary, to stabilize water levels and prevent steeper grades from becoming exposed.

h. Habitat Pond. In addition to the standards above, a habitat pond shall meet the following standards.

- i. NRO and EA Apply. All habitat ponds located in the NRO are subject to the standards of Sections 5.2.1 and 8.2.2, regardless of zone.
- ii. Shallows. Sufficient shallows to allow the water feature pond to effectively function as wildlife habitat shall be provided. The design shall be reviewed, at the applicant's expense, by a wildlife biologist or by Wyoming Game and Fish, to ensure that shallows are designed to provide safe and functional wildlife habitat Including but limited to the following goals:
  - a) Insuring safe ungulate ingress and egress
  - b) Planting of the aquatic bench with vegetation preferred by native waterfowl, fish, ungulates, amphibians and reptiles.

D. Manmade Landforms

- 1. Intent. Manmade landforms are used to screen a structure, absorb sound, or reuse excavated material on site. The intent of this subsection is to establish standards to ensure that manmade landforms do not negatively impact wildlife, appear to be naturally occurring and are consistent with surrounding features. It is the intent that compliance with this subsection constitutes conformance to general natural landforms (Section 5.7.2.A.4) and minimization of cut and fill (Section 5.7.2.A.9).
- 2. Berm. A berm that is 4 feet in height or greater shall meet the following standards.
  - a. Location. The toe of a berm shall meet all-natural resource setbacks and the site development setback for the site (however, a berm shall not be considered site development).
  - b. Outward Slope. The ends of the berm and side of the berm facing out of the property shall meet the following standards.
    - i. Outside the SRO a berm shall have an outward slope no steeper than 5 (horizontal): 1 (vertical) slope.
    - ii. Inside the SRO a berm shall have an outward slope no steeper than 20:1.
  - c. Maximum Height. The maximum height of a berm at any point shall be 10 feet, as measured from the nearest point of the low-side toe.
  - d. Undulation. Berms shall be shaped to emulate undulation in terrain rather than appear monolithic, pyramidal, or extruded.
  - e. Fencing. Fencing is prohibited on a berm.
  - f. NRO and EA Apply. A berm located in the NRO shall be subject to the standards of Sections 5.2.1 and 8.2.2, regardless of zone.
  - g. Exemptions.
    - i. Site development setbacks and outward slope standards shall not apply upon mutual application by adjacent land owners.
    - ii. The dimensional standards shall not apply to a berm that is part of a public linear transportation or utility project, if a defined easement or right-of-way precludes construction of the berm that meets the dimensional standards.

5.2.1.D.2. [Applicability of NRO Standards] NC-TC Zoned Lands. All physical development, use, and development options, except new subdivisions, habitat ponds and berms, within the NC-TC zone, or within the R-1, R-2 or R-3 zones on land zoned NC-TC on March 31, 2016, shall be exempt from the standards of this Section, except that 5.2.1.D.2.G.4., G.6., and Section 5.1.2. shall apply.

5.7.2.B.8. [Grading Standards] Cut and Fill within Site Boundaries. In the absence of a mutual grading easement between adjacent land owners, The tops and toes of cut and fill slopes shall be within the property lines of the proposal, and outside of right-of-way lines and vehicular access easements. Where adjacent landowners agree to waive this requirement for all or a portion of their common boundary, an easement for the grading activity, maintenance activity and the final grading configuration shall be required for each lot of record affected. A copy of the easement(s) shall be submitted for staff review as a part of the grading approval process. The Permanent easement(s) shall be recorded by the Teton County Clerk and recorded against the subject lots of record.

8.2.2.B.1.c [Environmental Analysis, Exemptions] NC-TC. All development located within the NC-TC zone, or within the R-1, R-2 or R-3 zones on land zoned NC-TC on March 31, 2016, except new subdivision, habitat ponds, and berms.

5.3.2.G.5.b. [Scenic Resources Overlay, Foreground Standards] Berms. Berms may be used to screen structures located within a meadow or pasture provided the side of the berm exposed to critical views from designated scenic roads risers at no greater than a 5% grade is no steeper than 20 (horizontal) : 1 (vertical). Berms may be used to screen structures located in undulating terrain provided the berm meets the standards of Section 5.1.6. and is designed to appear as a naturally occurring extension of the existing topography. Berms must be planted to replicate the surrounding plant communities.

6.1.12.F.2.d. [Temporary Gravel Extraction and Processing, Reclamation Standards]

- ii. Ponds/Water Features. All ponds or water features created by gravel extraction shall meet the standards of this Subsection Section 5.1.6.

- a) ~~Water Supply. Extraction and filling of a reservoir shall not infringe on down stream appropriator's rights as established by the State Engineer's Office.~~
- b) ~~Shoreline Transition. The slope from the shoreline to upland areas shall be no more than 5:1 for at least 15 feet from the shore toward the upland area~~
- c) ~~Pond/Water Feature Side Slopes. All pond and island shorelines shall have 5:1 side slopes for at least 50% of the shoreline length; the Planning Director may waive or alter this requirement, based upon there being no reasonable expectation that the pond will be used by waterfowl and upon demonstration that the design shall not pose a safety hazard. All other side slopes shall be no steeper than 3:1. All side slopes shall be maintained into the pond/water feature for the length necessary to reach a depth of 2 feet; thereafter, side slopes shall be no steeper than 2:1. Shorelines shall receive a minimum six inches of topsoil until the side slope reaches a depth of 2 feet.~~
- d) ~~Shallows. Sufficient shallows to allow the water feature to effectively function as wildlife habitat shall be provided. The design shall be reviewed, at the applicant's expense, by a wildlife biologist or by Wyoming Game and Fish, to ensure that shallows are designed to provide functional wildlife habitat.~~
- e) ~~a) Supplemental Water Supply. A supplemental water supply; e.g., water from the Snake River or any other watercourse and conveyed irrigation ditches shall be developed, if necessary, to stabilize water levels and prevent steeper grades from becoming exposed.~~

Discussion between the Board and staff included new regulations issue an erosion permit instead of a pond permit, grading permit to fill in a pond to make it conforming, how to acknowledge ponds are being conformed to, both sides of berms are being taken care of under D.2.b – outside must meet the most stringent standards, setbacks are zone specific, benefits of the Public Works exemption, adding language to look for an alternate option first, variance instead of blanket exemption, public process on county projects, 10-foot maximum height for berms, any requirements on how a neighbor maintains a berm – sediment and erosion control standards that are applicable to all parts of the berm / weed & pest regulations will also come into play / approved landscape plan and maintenance of the approved landscape plan, proposed regulations address structures (bridges) over ponds – not addressed, separate standards for aerators , location, liners, discharge, and buffer establishment, not regulating the pond depth, aquatic bench is existing regulation, pond outfall, not regulating mechanical transportation of water, requirement to line ponds, and not allow ornamental water features.

Public comment was given by Linda Williams, Mark Hershberger, Ken Mahood, and Carlin Girard.

The meeting was recessed at 12:00pm and reconvened at 1:30pm.

Planning staff presented the following amendments:

- ~~D.2.g.ii – The dimensional standards shall not apply to a berm that is part of a public, linear transportation or utility project, if a defined easement or right-of-way precludes construction of the berm that meets the dimensional standards.~~
- TO AMEND: 5.e - Aerators Prohibited in Winter – The pond shall not utilize an aerator or circulator from December 1 through April 30 unless it is on a site with no residential use and is verified by the Wyoming Game and Fish to have the sole purpose of wildlife habitat.
- TO CORRECT: Correct code in Section 5.iv
- Section 4.f Ornamental Water Feature aerator
- Section D.2.G.i Delete; Public Works Exemption

Discussion among the Board included impact on existing ponds and existing structures near ponds, enforcing shutdown of aerators from December 1 through April 30, knowledge of number of animals that have fallen through ice, prohibition on aerators would only apply to new ponds not existing ponds, minimum/maximum depth of ornamental water features, well fed ponds, regulating vegetation on berms, definition of natural vegetation, temporary stockpile under CUP, pond allowances for certain non-conformities, expansion outside of the wall planes, scaling the size/height of berms according to property size, within a subdivision berms may impact neighboring property, zone specific scaling on berms, 20:1 is current standard, berms/ponds effects on scenic resources overlay, neighbor to neighbor interaction with berms, length of a berm is site specific, protected viewsheds obstruction and it's definition, agreement by two property owners, clarity of exemption of mutual application by adjacent land owners, height of berms in R1 / R2 / R3, potential conflicts among neighboring property owners, setback / height / slope / vegetation of berm, Natural Resources regulations process.

The Board reviewed the key issues:

1. Should certain public projects be exempt from the Berm Standards?
2. Should maintenance of a required natural pond buffer be allowed?
3. Should the Ponds section include allowances for certain non-conformities?

A motion was made by Commissioner Macker and seconded by Commissioner Vogelheim to continue this item AMD2018-0001 Land Development Regulations Amendment to Manmade Land Forms to a workshop on July 30, 2018. Chair Newcomb called for the vote. The vote showed all in favor and the motion carried.

**MATTERS FROM COMMISSIONERS**

- A. Wilson Boat Ramp – Alyssa Watkins, BCC Administrator, gave an update via an email from Steve Ashworth, Director of Parks & Recreation.

“The County is performing approved maintenance in a reasonable manner according to local, state and federal law. Please remember, The permitting process and authority the County has is to the access of the river through County owned or managed property. The County does not have the authority or jurisdiction to alter the course of the river. The ultimate responsibility of safety and liability as it relates to the river edge inward is that of the user/outfitter. If the user deems the river to be unsafe, they should find alternative solutions and locations within the law. No outfitter/user is required, bound or financially obligated by the County to utilize the facility. Staff is continuing to meet with stakeholders and officials to identify opportunities to enhance river access, as well as plan/evaluate structural river bank improvements that will provide a more predictable and sustainable point of access to the river. Please understand that the historical standards of altering the channel by users in the past was well intended but not always lawful. The expectation that this practice would continue is not possible.

We continue our commitment to provide clean and safe park and public facilities within our ability and lawful jurisdiction. If there are opportunities to make improvements or a request of service level increase within these limits we would be happy to hear them.”

Discussion among the Board included people have paid money for permits, part of the Snake River Management Plan, give staff time to act, be proactive not reactive, think about this from a long-term point of view, is there a timeline, funding allocation for boat ramp maintenance, safety concerns for entering or exiting the river, rely on staff to do the work they are trained for, Mr. Ashworth has begun the work as outlined in his update yesterday, will request an update by end of work today.

**EXECUTIVE SESSION**

**ADJOURN**

A motion was made by Commissioner Vogelheim and seconded by Commissioner Epstein to adjourn. Chair Newcomb called for the vote. The vote showed all in favor and the motion carried. The meeting adjourned at 3:34pm.

Respectfully submitted,

Shelley Fairbanks  
Deputy County Clerk

TETON COUNTY BOARD OF COMMISSIONERS

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Mark Newcomb, Chair

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Natalia D Macker, Vice-Chair

\_\_\_\_\_  
Greg Epstein

\_\_\_\_\_  
Paul Vogelheim

ATTEST:

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Kathleen "Smokey" Rhea

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Sherry L. Daigle, County Clerk