

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

The Teton County, Wyoming Board of County Commissioners met in regular session at 9:00 a.m. on **March 2, 2010** in the Commissioners Chambers at 200 S Willow, Jackson, Wyoming.

Roll Call: Hank Phibbs-Chairman, Andy Schwartz, Leland Christensen, and Paul Vogelheim. Ben Ellis was absent.

Staff: Sherry Daigle, Steve Foster, Jim Radda, Eve Lynes, Wayne Neal, Charlotte Reynolds, Rich Ochs, Willy Watsabaugh, Nicole Krieger, Jeff Daugherty

Chairman Phibbs called the meeting to order at 9:04 a.m. and the Pledge of Allegiance was recited.

MINUTES

Mr. Vogelheim moved to approve the minutes for the Regular Meetings dated 2/16/10, 2/22/10 and a special meeting on 2/17/10, Mr. Schwartz seconded. The Motion passed unanimously.

DIRECT CORRESPONDENCE

1. National Park Service 2/11/2010 letter to BCC regarding invitation to participate in the Winter Use Plan and Environment Impact Statement
2. Kevin Long, Federal Emergency Management Agency 2/12/2010 letter to BCC regarding the final flood elevation determination for the unincorporated areas of Teton County are in compliance
3. Michael Farrell, Department of the Army 2/16/2010 to BCC regarding annual fall levee maintenance is complete, appreciation support from the Roads department
4. Deb Sprague, Jackson Hole Community Counseling Center 2/16/2010 email to BCC regarding request for letter stating Curran-Seeley and JHCCC are designated providers of mental health and substance abuse services in Teton County
5. Michael Gellis 2/16/2010 email to BCC regarding in support of St. Johns Medical Center SPET application
6. Ted and Addie Donnan 2/17/2010 to BCC regarding in support of St. Johns Medical Center SPET application
7. Lisa Delaney 2/18/2010 letter to BCC regarding in support of the Library SPET application
8. Jennifer Fortune 2/20/2010 email to BCC regarding in support of the North 89 Pathway SPET application
9. Kristen Simpson 2/20/2010 email to BCC regarding in support of the North 89 Pathway SPET application
10. Len Carlman 2/20/2010 email to BCC regarding in support of the North 89 Pathway SPET application
11. Nancy Niemann 2/21/2010 email to BCC regarding in support of the North 89 Pathway SPET application
12. Susan Hedden 2/21/2010 email to BCC regarding in support of the North 89 Pathway SPET application
13. Dave Dufault 2/21/2010 email to BCC regarding in support of the North 89 Pathway SPET application
14. Shannon McCormick 2/21/2010 email to BCC regarding in support of the North 89 Pathway SPET application
15. Marten Quadland 2/21/2010 email to BCC regarding in support of the North 89 Pathway SPET application
16. Mark Memmer 2/21/2010 email to BCC regarding in support of the North 89 Pathway SPET application
17. Joe Meserole 2/21/2010 email to BCC regarding in support of the North 89 Pathway SPET application
18. Lane Presson 2/21/2010 email to BCC regarding in support of the North 89 Pathway SPET application
19. Bill Erickson 2/21/2010 email to BCC regarding in support of the North 89 Pathway SPET application
20. Don Alsted 2/21/2010 email to BCC regarding in support of the North 89 Pathway SPET application
21. Evan Land 2/21/2010 email to BCC regarding in support of the North 89 Pathway SPET application
22. Kelli Petrick 2/21/2010 email to BCC regarding in support of the North 89 Pathway SPET application
23. Tim Young 2/21/2010 email to BCC regarding in support of the North 89 Pathway SPET application
24. Jack Delay 2/21/2010 email to BCC regarding in support of the North 89 Pathway SPET application
25. Jill Moberg 2/21/2010 email to BCC regarding in support of the North 89 Pathway SPET application
26. Andy Weenig 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
27. Jim McNutt 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
28. Scott Fitzgerald 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
29. John Walker 2/23/2010 email to BCC regarding in support of the North 89 Pathway SPET application
30. Rich Sugden 2/19/2010 email to BCC regarding in support of the St. Johns Medical Center SPET application
31. Kyle James 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
32. Maio and Levon Nishkian 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
33. Angela Burton 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
34. Ginny Shaw 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
35. Ellen Fales 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
36. Chad Weiss 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
37. Ethan Lobdell 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
38. Jamie Mackintosh, Mike & Emery Rheam 2/22/2010 email to BCC in support of the North 89 Pathway SPET application
39. R.V. Spencer 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
40. Luke Lynch 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
41. Carol Viau 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
42. JoAnn Hoff 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
43. Lewis Parker 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
44. Maggie and Jim Hunt 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
45. Remy Levy 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
46. Peter Dittmar 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
47. Matt Daly 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
48. Patty and Frank Ewing 2/22/2010 email to BCC regarding in support of the Snake River Boat, Park, Beach SPET application
49. Jeff Ames 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
50. Kristin Nice 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
51. Carson Stanwood 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
52. Johanna Love 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
53. Kim Vletas 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
54. Brandon Campisi 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
55. Paula Szytko 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
56. Chip Carey 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application

57. Marilyn Mullikin 2/22/2010 to BCC regarding in support of the St. Johns Medical Center SPET application
58. Jessica Yeomans 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
59. Lee Riddell 2/22/2010 email to BCC regarding in support of the Library SPET application
60. David Chapman, Department of Revenue 2/22/2010 letter to BCC regarding governmental entities with authority to levy a mill
61. Michael 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
62. Ted Kyle 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
63. Hernando Pardo 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
64. Jeff Wilcox Family 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
65. Evan Roy 2/22/2010 email to BCC regarding in support of the North 89 Pathway SPET application
66. Cindy Harger 2/22/2010 email to BCC regarding in support of the Scenic Preserve Trust open space SPET application
67. Mark Vandembroeke 2/22/2010 email to BCC regarding snowmobiles in highway right-of-way
68. Charles Payne 2/23/2010 letter to Harv Forsgren, US Forest Service regarding North Cache Conveyance Project by the Bridger-Teton National Forest
69. Ed McAuslan, W C C A 2/23/2010 email to BCC regarding WACO Theme for 2010 - Wyoming: Pride and Glory
70. Jackson Hole Conservation Alliance 2/24/2010 email to BCC regarding the proposed Environment Commission

PUBLIC COMMENT ON CORRESPONDENCE

Mark Vandembroeke of Buffalo Valley spoke to the subject of snowmobilers riding on the right of way and requested that the Commissioners request a legal opinion from the State Attorney General's office on County Commissioners having the authority to rule on snowmobile usage on the right of way as well as the road.

There was no further public comment.

Mr. Schwartz moved to alter the meeting agenda by postponing Matter From Staff Item #8 – Approval of and Request for Signature on the Land and Conservation Funds Grant Agreement, Matter From Staff Item #9 - Approval of and Request for Signature on Agreement with State Energy Office for the Energy Efficiency and Conservation Block Grant, Round One, Matter From Staff Item #11 – Approval of Community Juvenile Services Board Contract between Teton County and the Wyoming Department of Family Services; Matter From Staff Item #16 – MFS2010-0004: Approval of affidavit and associated documents to record the 2002 Jackson Hole Golf and Tennis Club Master Plan and Old Business / New Business Item # 3 – Final Plat review for Vallee Subdivision (S/D09-0017) to the March 16, 2010 Agenda; and to add Matter From Staff #17 – Approval to Accept Grant Funding from the Wyoming Fire Chiefs Association for Training. And also to add a first item under Matters From Staff to hear the Proclamation for the 2010 Census. Mr. Christensen seconded and the Motion passed unanimously.

MATTERS FROM COMMISSION AND STAFF

Proclamation for the 2010 Census

Mr. Phibbs read the Proclamation.

PROCLAMATION: 2010 Census Partner Proclamation

WHEREAS, an accurate census count is vital to our community and residents' well-being and achieving an accurate and complete count of the nation's growing and changing population; and,

WHEREAS, more than \$400 billion per year in federal and state funding is allocated to states and communities based, in part, on census data; and,

WHEREAS, census data help determine how many seats each state will have in the U.S. House of Representatives and often is used for the redistricting of state legislatures and voting districts; and,

WHEREAS, the 2010 Census creates jobs that stimulate economic growth and increase employment; and,

WHEREAS, the information collected by the census is confidential and protected by law;

NOW, THEREFORE, BE IT RESOLVED THAT the Board of County Commissioners, on behalf of the people of Teton County confirms our partnership with the U.S. Census Bureau to help ensure a full and accurate count in 2010.

As a 2010 Census partner, we will:

1. Support the goals and ideals for the 2010 Census and disseminate 2010 Census information to encourage those in our community to participate.
2. Encourage people in our community to place emphasis on the 2010 Census and participate in events and initiatives that will raise overall awareness and ensure a full and accurate census.
3. Support census takers as they help our community complete an accurate count.
4. Create or seek opportunities to collaborate with other like-minded groups in our community by participating in Complete Count Committees and/or utilizing high-profile, trusted voices to advocate on behalf of the 2010 Census.

DATED THIS 2nd DAY OF March, 2010

Signed: _____
Hank Phibbs, Chairman Board of County Commissioners

Attest: _____
Sherry Daigle, Teton County Clerk

Mr. Schwartz moved to adopt the Proclamation, Mr. Christensen seconded and the Motion passed unanimously.

1. Acceptance of an FAA Airport Improvement Program Grant No. 3-56-0014-43 for Terminal Building Project

Sherry Daigle, County Clerk presented this item on behalf of the Airport Board who was represented in the audience. The grant would fund the expansion of the terminal building.

Ray Bishop, Airport Director addressed the Board and summarized the grant and airport project. He stated the project was ahead of schedule and under budget. He invited the Board to a ribbon cutting for the new ticket hall and baggage inspection system on May 26, 2010.

Mr. Schwartz asked if any of the administrative duties would fall to the County. Mr. Bishop did not believe so, he stated the Airport Construction Manager would handle the grant management.

Mr. Vogelheim asked when the airport safety audit information would be available. Mr. Bishop replied that a working group was formed for this analysis including the Park, FAA, and Wyoming Aeronautics and expected the first draft to be available in September.

There was no public comment on this item.

Mr. Christensen moved to accept the FAA, Airport Improvement Grant, in the amount of \$1,184,471.00 for the Expansion of the Terminal Building per the grant agreement presented today. Mr. Vogelheim seconded and the Motion passed unanimously.

2. Approval of Base Station Radio Purchase for Emergency Operations Center

Rich Ochs, interim Emergency Management Coordinator presented this purchase for approval. The proposal included six base station radios for the Operations Center, each radio costing approximately \$6,500 each. In the event of an emergency when telecommunication systems fail, these radios would allow communications throughout the valley.

Mr. Vogelheim questioned having all six radios located at the center. Mr. Ochs responded each radio had a different set of frequencies which would duplicate radios used around the valley.

There was no public comment on this item.

Mr. Vogelheim moved to approve the purchase of six base/control station radios with Homeland Security grant funding for the new Emergency Operations Center. Mr. Christensen seconded and the Motion passed unanimously.

3. Approval of Application to the 2010 Volunteer Fire Assistance (VFA) and Rural Fire Assistance (RFA) Grant Program

Willy Watsabaugh, interim Fire Chief presented this grant application to the Board. This is an ongoing grant that would supplement wild land fire shelters and training aids through the Bureau of Land Management and the National Park Service. The grant requires a 10% match which was budgeted in the 2009/2010 Fire/EMS budget.

RESOLUTION: Authorizing Approval of a Grant Application to the 2010 Rural Fire Assistance Grant for the Purpose of Supplementing Wild Land Fire Supplies and Training Aids

WHEREAS, the Board of County Commissioners for Teton County desires to participate in the 2010 Rural Fire Assistance Grant to assist in financing wild land supplies and training aids; and

WHEREAS, the Board of County Commissioners for Teton County recognizes the need for the project; and

WHEREAS, the 2010 Rural Fire Assistance Grant requires that certain criteria be met and to the best of our knowledge, this application meets those criteria; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners for Teton County, that a grant application in the amount of \$18,300.00 be approved.

BE IT FURTHER RESOLVED, that Interim Chief Willy Watsabaugh is hereby designated as the authorized representative of Teton County to act on behalf of the Board of County Commissioners on all matters relating to this grant application.

PASSED, APPROVED, AND ADOPTED this 2nd day of March, 2010.

TETON COUNTY BOARD OF COUNTY COMMISSIONERS

By: _____
Hank Phibbs, Chairman

ATTEST:

By: _____
Sherry Daigle, County Clerk

There was no public comment on this item.

Mr. Christensen moved to authorize the Chairman to sign a resolution supporting Jackson Hole Fire/EMS in submitting a grant application to the 2010 Rural Fire Assistance Program for Personal Protective Equipment and training supplies in the amount of \$18,300.00. Mr. Vogelheim seconded and the Motion passed unanimously.

4. Approval of the Purchase of QuickRescue Fire Apparatus for Station 6

Willy Watsabaugh, interim Fire Chief presented the proposal of this purchase of a Quick Attack Rescue for Station 6. The majority of funds needed have been received from a private donation (75,000), from the State (\$22,500) which left \$11,250 from the Town and the same amount from the County. This item was budgeted in the 2009/2010 capital budget.

There was no public comment on this item.

Mr. Watsabaugh stated the Wilson Volunteer Fire Department Association offered to donate approximately \$30,000 for upgraded tools for this apparatus and the apparatus already located at Station 2.

Mr. Christensen moved to approve the request to send out a notification for bid and for the purchase of Quick attack/Rescue for Station #6. Mr. Vogelheim seconded and the Motion passed unanimously.

5. Approval of Bid Award for Storage Area Network (SAN) Hardware

Eve Lynes, IT Manager presented this project for approval. The project is for server virtualization and was initially discussed about a year ago with the Board. A year ago, the project was originally scoped to cost \$63,000 and has been reduced to \$27,187 today, plus budgeted funds from the fiscal year 2011 operating budget. Due to the age of the servers in the county and the high replacement costs, server virtualization technology represents immediate and future cost savings. Funding this project would eliminate server and personal computer replacement costs and would enable the server room in the administration building to be shut down, which would in turn help reduce energy costs in line with the 10x10 goal. Three bids were discussed with the preferred vendor being the lowest bid. This is the same technology that the Teton County Sheriff's office recently installed.

Mr. Vogelheim and Ms. Lynes discussed the costs and items included in the bids.

There was no public comment on this item.

Mr. Christensen moved to approve the bid award to ISC for the purchase and installation of the EMC SAN as proposed. Mr. Vogelheim seconded and the Motion passed unanimously.

6. Approval of Contract /Request for Signature with Compunet for Septic Transfer Station

Eve Lynes, IT Manager presented this item. This project derived from the Honeywell audit and includes installation of wireless network connectivity at the Septic Transfer Station, which is an unmanned station. This is a twelve month contract at \$60.00 per month which will be paid upfront from the Honeywell funds.

There was no public comment on this item.

Mr. Christensen moved to request the Chair to sign the attached documents to allow the County to proceed with the installation of CompuNET service at the Septic Transfer Station for a period of one year. Mr. Vogelheim seconded and the Motion passed unanimously.

7. Approval of the 2010 Task Order Supplement to the Cooperative Agreement between Teton County and the U.S. Army Corps of Engineers

Wayne Neal, Road Superintendent presented the FY2010 Supplement to the Cooperative Agreement between the U.S. Army Corps of Engineers and Teton County for the Operation and Maintenance of the Jackson Hole Local Flood Protection Project. The Corps would be responsible for operation and maintenance of the Project. Work would be accomplished by Teton County, and consisted of furnishing all plant, labor, materials, equipment, supervision, administration and performing all operations necessary to complete the tasks. All work would be performed in accordance with the provisions and specifications in this Task Order or the Project Standard Operating Procedures. Approximately \$70,000 would be the County's cost share for Operation and Maintenance. This would be included in the "Cost Share O & M" line item in the FY 2011 Teton County Budget. All other expenses incurred while executing the 2010 Task Order, would be totally reimbursed by the Army Corps of Engineers. The initial cost was \$150,369.05.

Mr. Vogelheim confirmed that legal review had been done. Mr. Neal affirmed it had.

Mr. Schwartz questioned the portion in the agreement pertaining to levee maintenance. He stated it would be our responsibility to replace, at no cost to the Corps, any surfaces that had been bladed off. He asked for confirmation that it would go into the contract with the subcontractor, so they would be responsible for that. Mr. Neal confirmed Mr. Schwartz' statement was correct.

There was no public comment on this item.

Mr. Schwartz moved to approve and request and require the Chair to sign the Supplement (2010 Task Order) to the Cooperative Agreement between the U.S. Army Corps of Engineers and Teton County, Wyoming for the Operation and Maintenance of the Jackson Hole Local Flood Protection Project. Mr. Vogelheim seconded.

There was discussion amongst the Board on the commitment required by the County as to unknown financial aspects in the contract and it was important to have the Corps cooperation on the levee system maintenance.

The Motion passed unanimously.

8. Approval of and Request for Signature on the Land and Conservation Funds Grant Agreement

This item was postponed to March 16, 2010.

9. Approval of and Request for Signature on Agreement with State Energy Office for the Energy Efficiency and Conservation Block Grant, Round One

This item was postponed to March 16, 2010.

10. Approval of a Letter of Support for Curran-Seeley Foundation and Jackson Hole Community Counseling Center annual grant application

Charlotte Reynolds, Grant Writer presented the letter of support for approval and signature. This year the Department of Health required that, as the Counties designees for service providers related to mental health and substance abuse, the County provides a letter of support to accompany their application.

Mr. Schwartz suggested a revision to the letter to strengthen the support statement - to include that the County actually funds these entities as well as supports their efforts.

Mr. Schwartz asked what level of cuts they foresee from the Wyoming Department of Health this year.

Deb Sprague of the Community Counseling Center addressed the Board in response to Mr. Schwartz. She stated she did not expect specific cuts this year from the annual contract.

Ed Wigg Director of Curran-Seeley Foundation addressed the Board in response to Mr. Schwartz. He stated that they expect to lose another \$60,000 in state funding, representing 5% of their budget. He stated these were not funding cuts but funding redistributions. Deputy Director McDaniel decided to cut funding to community providers and redistribute those funds in a different manner. He referenced House Bill 308 money for substance abuse funding; Curran Seeley has enjoyed about \$40,000 in House Bill 308 money but anticipates about 50% of that funding to go away.

Mr. Vogelheim asked about cuts this year. Ms. Sprague stated this year was 10% less and their agency lost two full time employees.

There was no public comment on this item.

Mr. Christensen moved to approve and direct the Chair to sign a Letter of Support to the Wyoming Department of Health on behalf of the Jackson Hole Community Counseling Center and Curran-Seeley Foundation. Mr. Vogelheim seconded and the Motion passed unanimously.

11. Approval of Community Juvenile Services Board Contract between Teton County and the Wyoming Department of Family Services

This item was postponed to March 16, 2010.

12. Elk View Properties, LLC v. Lynda E. Lucas, et. al. - Application for the Establishment of a Private Road. Consideration of appointing a hearing officer.

Mr. Phibbs recused himself at 9:57 a.m.
Mr. Schwartz took the role as Chair.

Jim Radda, Deputy County Attorney stated on February 16, 2010 the Board set a hearing date of May 25, 2010 in the matter of Elk View Properties private road application. At that time, Terry Martin was the suggested hearing officer but had not been confirmed and he had not been able to confirm with Mr. Martin since. Attorney Mark Gifford from Casper was then suggested as the hearing officer. Mr. Radda had spoken with Mr. Gifford and Mr. Gifford agreed to serve as hearing officer. Mr. Gifford's fee was \$250 per hour. Mr. Radda requested the hearing date be moved to the week of June 7, preferably June 9, 10 and 11, 2010; due to a conflict with Mr. Cannon.

Kim Cannon, attorney for Riva Ridge Homeowners Association spoke in appreciation of the Board considering a new hearing date. He stated he was comfortable with Mr. Gifford as the hearing officer.

David DeFazio attorney for the applicant stated he was also comfortable with Mr. Gifford as the hearing officer.

There was no public comment on this item.

Mr. Christensen moved to appoint Mark Gifford as hearing officer and set the hearing dates of June 9, 10 and 11, 2010 for the Elk View Properties hearing. Mr. Vogelheim seconded and the Motion passed 3-0 with Mr. Phibbs recused and Mr. Ellis absent.

Mr. Phibbs rejoined the meeting as Chair at 10:04 a.m.

13. EXT2010-0003 - Jennifer Kocher-Anderson - Mountain High Building, Inc. - One year extension of an approved variance (VAR 2007-0020), pursuant to Section 5200, Extraordinary Circumstances Time Extension, of the Teton County Land Development Regulations. If approved the applicant would have until March 2, 2011 to develop a single family dwelling. The applicant was permitted to construct a single family home within the Snake River setback and with a modified street yard setback

Jeff Daugherty County Planning Director presented on behalf of Jennifer Anderson. Rob Hoff on behalf of the owner, Jackson Hole Whitewater A WY Corp/David Tibbitts requested a time extension of one-year for previously approved Variance (VAR 07-0020) that expired March 19, 2009. The Variance to build a house within the Snake River setback and the street yard setback expired prior to a building permit being issued; therefore an extension was required to move forward with the building of the home. This request would extend the expiration date to one-year from approval.

Since 2002, this owner has requested four setback variances to construct a single family home. The first three were denied by the Board of County Commissioners. On March 18, 2008, the Board of County Commissioners approved the final Variance request to construct a home within the Snake River setback and with a modified street yard setback at Hoback Junction. Variances once approved, expire within one-year should no building permit be issued in order to establish the variation authorized.

Mr. Schwartz questioned if it expired in March 2009, the extension date would be today going forward. Mr. Daugherty affirmed.

Mr. Vogelheim questioned since this had already expired, what represents the extraordinary circumstance. Mr. Daugherty presented alternatives for the Board today.

Mr. Phibbs asked Mr. Radda if something that had expired could be extended. Mr. Radda said there was an allowance in the regulations for retroactive extensions.

Rob Hoff of Mountain High Building spoke on behalf of the applicant and to the past problems of the construction project management.

There was no public comment on this item.

Mr. Schwartz moved to approve Extraordinary Circumstances Time Extension (EXT 10-0003) for a one-year extension of the Tibbits' setback Variance Permit 07-0020, to expire on March 2, 2011. Mr. Christensen seconded and the Motion passed unanimously.

14. MFS2010-0005 - Susan Johnson - Approval of the Planning Department's updated fee schedule

Susan Johnson, County Planning presented this item. The purpose of the Planning & Development Department fee schedule update was to adjust the level of general revenue support for specific tasks that benefit individual developers, landowners, or other permit applicants to ensure fair share assignment of the cost of services that the Board determines to be appropriate. The amendment was intended to eliminate unnecessary fees, reduce excessive fees, add fees for services that previously had no fee, as well as increase existing fees for services that were clearly not compensating the Department for the time it was taking to provide these services or process these applications. Periodically, the Planning & Development Department reviews their fee schedule. The current fee schedule had been amended six times since its adoption in 1994, with the last major update occurring in 2005. Approval of this fee schedule update would assist the Department in preparing the revenue element of the 2010/2011 fiscal year proposed budget. It would also enable the Department to ensure fees are commensurate with time spent on applications and services; some of the fees were determined to have been too high, and some too low. In some cases no fees were being charged, but a significant amount of staff time was spent providing these services.

Some of the updates to the fee schedule were simply for clarification purposes, such as the proposed changes to the cost of a Variance. The proposed fee schedule included both Engineering and Planning fees, as well as the total fee amount. Finally, there are fees being added to this fee schedule that have been collected in the past, but have historically been posted only in the Department and not on the fee schedule. These include fees for copies of the Comprehensive Plan and Land Development Regulations, large format maps purchased from Greenwood mapping, and color and black and white photocopies.

Mr. Vogelheim asked for confirmation that this amendment was not intended to increase fees due to budget constraints. Ms. Johnson affirmed that it was not, the intent was to clarify the schedule and have one inclusive fee schedule.

Scott Pierson spoke to his concern of Scenic Preserve Trust fees being included on the Planning Department's list of fees. He suggested a different account should be set up for the 501c3 stewardship funds.

Mr. Daugherty stated that he was working with the Clerk and Treasurer to be sure there is a separate account for the Scenic Preserve Trust fees.

Mr. Pierson stated when such fees are paid, the check should be made payable to the Teton County Scenic Preserve Trust and not the Planning Department.

Mr. Schwartz stated there was efficiency in having all the fees listed in one place and then it should be noted on fees with dedicated funds.

Mr. Daugherty stated that the Treasurer recommended that Scenic Preserve Trust funds should be in a restricted fund.

There was no further public comment on this item.

Mr. Schwartz moved to approve the updated fee schedule as presented by staff with the one change that it be noted within the fee schedule that all funds for the Teton County Scenic Preserve Trust be written with a check payable to that entity. Mr. Vogelheim seconded and the Motion passed unanimously.

15. MFS2010-0009 - Susan Johnson - Approval to amend the deed restrictions associated with the Teton County Hospital District properties in the Glory View Subdivision

Susan Johnson, County Planning presented on behalf of the Teton County Hospital District who was requesting to modify the deed restrictions for five housing units in the Glory View Subdivision to permit permanent employees of the hospital working a minimum of 1040 hours per year to purchase the deed-restricted units, where currently full-time employment is required, and to extend the period of time for an owner to sell an existing residence from six months to twelve months. In November 2008 the Board of County Commissioners refunded \$75,000.00 in exaction fees associated these five market units that were purchased by the Hospital District as housing for full-time hospital employees.

Barb Arnett spoke on behalf of the Medical Center's lodging program; she requested a little flexibility in the deed restriction to allow for a wider range of permanent employees.

There was no public comment on this item.

Mr. Christensen moved to move to approve the Teton County Hospital District's request to amend their deed

restrictions as set forth in the attached amended deed restriction. Mr. Vogelheim seconded and the Motion passed unanimously.

16. MFS2010-0004 - Paula Stevens - Approval of affidavit and associated documents to record the 2002 Jackson Hole Golf and Tennis Club Master Plan

This item was postponed to March 16, 2010.

17. Approval to Accept Grant Funding from the Wyoming Fire Chiefs Association for Training

This item was heard following item 4 earlier in the agenda.

Willy Watsabaugh, interim Fire Chief presented this item for the Board's approval to accept funds from the Wyoming Fire Chiefs Association that was applied for back in January 2010. These funds would be used on medical physicals for volunteers.

There was no public comment on this item.

Mr. Schwartz moved to authorize Jackson Hole Fire/EMS to submit invoice and voucher to the Wyoming Fire Chiefs' Association to accept grant funds for physicals and health screening. Mr. Christensen seconded and the Motion passed unanimously.

OLD BUSINESS/NEW BUSINESS

A recess was called at 10:22 a.m.

The meeting reconvened at 10:33 a.m.

- 1. Applicant:** TETON COUNTY PLANNING & DEVELOPMENT
Agent: None
Presenter: Susan Johnson
Permit No.: AMD2009-0022
Request: Amend the Text of the Land Development Regulations, pursuant to Section 5150, Amendments to the Text of These Land Development Regulations or the Official Zoning District Map, to eliminate the ability to rezone to Planned Unit Development (PUD-AH) District for Affordable Housing zoning and eliminate the ability to rezone to Planned Unit Development (PUD-PR) District for Planned Resort. In addition, the amendment proposes eliminating the ability to add density to an existing PUD-AH or PUD-PR, with the exception of adding additional employee or affordable housing units within the boundary of an existing PUD-PR.
The following regulations are pertinent to the amendment; other sections of the Land Development Regulations may be amended for consistency: Section 2010, Establishment of Zoning Districts and Zoning District Overlays; Section 2150, Special Purpose Districts; Section 2220, Definitions for Use Schedule; Table 2200, Use Schedule; Section 2340, Mobile Home Parks; Section 2540, Planned Unit Development (PUD-AH) District for Affordable Housing; and Section 2550, Planned Unit Development (PUD-PR) District for Planned Resort.
Location: These amendments would apply countywide.

Susan Johnson, County Planning Department presented this amendment for the Board's review. Amendment AMD2009-0022 would repeal two Sections in the Land Development Regulations: Section 2540 the Planned Unit Development District for Affordable Housing and Section 2550 the Planned Unit Development District for Planned Resorts and would add Section 2551 for limiting the increasing of densities within the PUD district for Planned Resort to affordable and employee housing.

Ms. Johnson provided background information on the proposed amendment. She stated the temporary freeze has been in place since May 6, 2008 which prohibited certain types of development applications to be processed including PUD-AH, PUD-PR and the PRD tool, as well as amending the official zoning district map for properties encompassing 20 acres or more that increased residential densities. Reasonable exceptions to the resolution had been permitted and four exceptions had been approved, all of were PRDs with one rezone from Rural to NC-PUD. The freeze resolution has been renewed three times; most recently on August 18, 2009 and is set to expire on April 1, 2010. During the August 2009 meeting there was discussion from the Board on removing two development tools until the Comprehensive Plan and new Land Development Regulations were in place; the two tools were the PUD-AH and PUD-PR. Also during that meeting, the Board requested staff begin work on updating the LDRs to line up with the proposed April 1st deadline when the freeze resolution expired.

A key issue included the PRD because the PRD was included in the moratorium, but is not being included in this proposed amendment because of the community benefit of preserving open space in PRDs. Another key issue is what happens to the existing PUDs. All existing PUD-AH and PUD-PRs would remain zoned as they are and retain all rights permitted under their current Master Plan or Final Development Plan. The only change is the existing boundary may not be expanded; alterations that do not increase area or density would be permitted. The permitted residential density within the PUD-AH and PUD-PR may not be increased with the exception of what is covered in proposed new LDR Section 2551. Section 2551 states the Board may allow for additional residential density for the purposes of affordable or employee housing only.

Six written comments were received; five were in support of the amendment to repeal the PUD-AH and PUD-PR with concerns on the technical aspects of the new Section 2551.

Mr. Radda asked Ms. Johnson about Section 2551. He stated he had drafted the first paragraph and asked how the second paragraph came to be. Ms. Johnson stated she drafted the second paragraph based on concerns voiced in public comment and by the Planning Commission's recommendation.

Mr. Radda stated he believed the first paragraph of Section 2551 would be necessary but was unsure about the necessity of the second paragraph. He stated the intention of the first paragraph was to give the Board the ability

to condition any added employee or affordable housing; which could be discussed ad hoc in the unlikely event that any further density in existing PUD-PR arose.

Public comment was open.

Scott Pierson spoke to the text amendment language being confusing with the repeal of two sections and then a new section that amends the repealed sections. He suggested changing them to NC zones.

Gail Jenson spoke to her concerns of the clarity of the amendment language but was overall in support of the amendment.

Kristy Bruner, Jackson Hole Conservation Alliance spoke in support of the intent of the amendment but requested clarification in the language to better guide future decision makers.

Mr. Vogelheim asked Ms. Bruner if she had seen the revised language in Section 2551 that addressed one of her concerns. Ms. Bruner had not seen the revision but was pleased it had been addressed.

Rich Bloom spoke in support of the concept of the amendment but had concerns about Section 2551.

Armond Acri spoke in support of the intent of the text amendment but does not support Section 2551.

Public comment was closed at 11:00 a.m. and was brought back to the Board for discussion.

Mr. Vogelheim referred to staff's revised language in the first paragraph of Section 2551 - striking the word "pertain" and adding "are limited to". He stated he was in support of the revision but had concerns about unintended consequences of the second paragraph.

Mr. Radda stated the proposed Section 2551 was a standalone provision. The Board could repeal Section 2550 and if there was not a Section 2551 added density could be proposed in the PUD-PRs. Section 2551 refers to *former* Section 2550 and states if there is an amendment proposed in any PUD-PR to add residential density then that amendment is prohibited unless it pertains to affordable or employee housing. Legally the PUD-PR could be repealed and have the standalone provision in Section 2551 that deals with proposals to add density to PUD-PRs that have vested rights. If Section 2550 is repealed and Section 2551 is not adopted in any part, then PUD-PRs could still submit added density applications.

There was discussion between Mr. Phibbs and Mr. Radda regarding existing projects under Sections 2550 and 2551; whether the Board should repeal these provisions rather than stating those provisions do not apply. Mr. Radda strongly advised against keeping Section 2550 on the books and then trying to craft language that Section 2550 no longer applies but they do apply to vested PUD-PRs.

There was further discussion amongst the Board on the amendment language.

Mr. Radda presented an option of adopting the basic provisions of Section 2551 (the first three lines) and leave the question regarding added density for the Board to consider to another day. There was discussion by the Board on this option.

Mr. Christensen moved to approve Text Amendment AMD09-0022, based upon finding that the application is consistent with the Teton County Comprehensive Plan and meets all applicable standards of Land Development Regulations with the language change as proposed by staff of striking "pertain" and adding "are limited to" in the first paragraph of Section 2551. Mr. Vogelheim seconded.

There was discussion amongst the board on the motion.

The Motion passed 3-1 with Mr. Schwartz opposed due to the need to have flexibility in Land Development Regulations along with predictability and this amendment goes too far. The complete removal of opportunities for affordable housing PUDs is not a good idea, although the regulations has problems he would prefer to have it amended to define areas in which it is appropriate and levels of density that would be appropriate in those areas rather repealing the Section.

- 2. Applicant:** TETON COUNTY PLANNING & DEVELOPMENT
Agent: None
Presenter: Maggie Schilling
Permit No.: AMD2009-0024
Request: Amend the Text of the Land Development Regulations, pursuant to Section 5150, Amendments to the Text of These Land Development Regulations or the Official Zoning District Map, to amend the Scenic Resources Resolution, in order to establish a stewardship fee, which will be collected with new open space easements accepted by the Teton County Scenic Preserve Trust.
Location: Amendment would apply countywide.

Maggie Schilling, Scenic Preserve Trust coordinator presented this as Old Business since it was originally heard on February 2, 2010. At the February meeting, the Board requested three major changes to the proposed language. The first is reflected in new paragraph B stating this amendment would apply to all new easements and on a case-by-case basis for amendments to existing easements. Staff was aware of six potential easement applications. The second major change is reflected in paragraph F stating a Transfer Agreement would be required on all Preserve Trust properties when they change hands in addition to the up-front Stewardship Fee. The third change is reflected in paragraph G which provides for a waiver of the up-front Stewardship Fee when it is a hardship for the landowner. The Board would have an opportunity to waive the fee based on certain criteria as defined in the Housing Authority's Category 5 guidelines.

Ms. Schilling stated the County Treasurer had suggested the amendment text specifically state the fee shall be designated as a restricted fund balance. This is the correct terminology used in the most recent Governmental Accounting Standards Board (GASB) bulletin addressing Fund Balance Reporting and Governmental Fund Type

Definitions. The Scenic Preserve Trust fees would be part of the General Fund Balance and designated as restricted in our annual financial statements.

Mr. Schwartz confirmed the statement regarding segregation of fees was in the amendment. Ms. Schilling confirmed it was in paragraph D.

Public comment was open.

Scott Pierson spoke to the 501c3 designation and urged the Board to review the 501c3, as to who the members were and that technically it is not a county entity. He stated the County could lose ability to defend itself as a 501c3 Scenic Preserve Trust.

Mr. Phibbs asked Mr. Radda to review the County's standing and administration of the 501c3.

Ms. Daigle stated she remembered, perhaps five years ago, receiving letters and clarification regarding that status and believed it may fall under a different classification of 501c6, but would need to review the file again.

Mr. Schwartz moved to amend the Text in the Land Development Regulations to authorize collection of Stewardship Fees AMD09-0024 as presented in the Staff Report dated February 19, 2010. Mr. Vogelheim seconded and the Motion passed unanimously.

- 3. Applicant:** VALLEE, JONATHAN C. & ELIZABETH A. TRUSTEES
Agent: Nelson Engineering
Presenter: Hillary Taylor
Permit No.: S/D2009-0017
Request: Final plat approval, pursuant to Division 6100, Final Plat, of the Teton County Land Development Regulations, to replat Lots 16, 17, and 18 of the Hoback River Subdivision, Plat No. 166.
Location: 4330 E Hoback River (Lots 16, 17 and 18 of the Hoback River Subdivision, Plat No. 166). Located south of Hoback Junction on the Hoback River. The properties are zoned Neighborhood Conservation Single Family and are in the Natural Resources Overlay.

This item was postponed to March 16, 2010.

- 4. Applicant:** MCAUSLAND, ALEXANDER M. ET AL TRUSTEES C/O BAINBRIDGE, JAMIE
Agent: Nelson Engineering
Presenter: Hillary Taylor
Permit No.: S/D2009-0016
Request: Final plat approval, pursuant to Division 6100, Final Plat, of the Teton County Land Development Regulations, to plat a two-lot subdivision from an existing lot.
Location: 2175 W Poker Flats Loop Road. Located north of Teton Village and south of Grand Teton National Park (S18, T42N, R116W). The properties are zoned Rural and are within the Scenic Resources Overlay.

Mr. Phibbs disclosed he had dealt with the applicant some years ago on a different matter.

Hillary Taylor, County Planning Department presented this final plat for approval. The Inglis family has owned the property since the 1950s. The property is an in-holding in Grand Teton National Park and is one of nine private parcels located on the Poker Flats Loop. The property is bordered by national park land on the north and the south. The property was developed prior to January 1, 1978 with two small cabins, a 400 square foot cabin and an 800 square foot cabin. Each cabin has a kitchen and a bathroom. In 2005 the Inglis family applied for and secured approval to subdivide the lot pursuant to Section 7270. Section 7270 permits the subdivision of a parcel if it was developed prior to January 1, 1978 with two or more single family residential dwelling units for the purpose of placing the structures on individual lots. The lots proposed by this subdivision would be 3.51 acres and 7.32 acres.

The Final Development Plan was approved by the Board on June 20, 2006 with seventeen conditions and two variances. The first variance was to vary the required road width standards to allow the access road, Poker Flats Loop, from the required sixty feet to forty feet. The second variance was to vary the road improvement standards requirements of twenty feet of gravel surface to allow the road to continue to be variable between sixteen feet of gravel and a ten foot two-track. Both variances were approved with conditions. Since 2005 this permit has been granted several extensions to allow the Inglis family time to gain the required roadway easements from the surrounding property owners. The needed easements and agreements are now in place, and the proposed lots will have adequate access as conditioned and the plat can move forward. Staff recommends approval.

Sue Karichner of Nelson Engineering presented for questions for the applicant.

There was no public comment on this item.

Mr. Christensen moved to approve Final Plat S/D2009-0016 based upon finding that the application meets all applicable standards in the Teton County Land Development Regulations with no conditions. Mr. Schwartz seconded and the Motion passed unanimously.

CONSIDERATION OF UNFINISHED BUSINESS

The meeting recessed at 11:35 a.m.

Chairman Phibbs reconvened the meeting at 11:40 a.m. for the purpose of considering whether the Board should meet in an Executive Session. The purpose of the executive session was to propose litigation over the use of the family exemption to the Real Estate Subdivision Act. The Board's counsel requested the executive session pursuant to Wyo. Stat. §16-4-405(a)(iii), which authorizes executive sessions "on matters concerning litigation to which the governing body is a party or proposed litigation to which the governing body may be a party."

3/11/2010 4:27 PM

Mr. Vogelheim moved, seconded by Mr. Christensen to convene an Executive Session, which passed unanimously. The executive session was convened at 11:40 a.m. In attendance were Hank Phibbs, Leland Christensen, Andy Schwartz, Paul Vogelheim, Sherry Daigle, Jim Radda, Nicole Krieger, Donna Baur, Cathy Toolson and Maggie Schilling.

Mr. Schwartz moved, seconded by Mr. Vogelheim to adjourn the Executive Session. Motion passed unanimously at 12:03 p.m. No action was taken.

ADJOURNMENT

Mr. Schwartz moved for adjournment, seconded by Mr. Vogelheim and the Motion passed unanimously. The meeting adjourned at 12:04 p.m.

TETON COUNTY BOARD OF COMMISSIONERS

Hank Phibbs, Chair
ABSENT _____
Ben Ellis, Vice-Chair

Andy Schwartz, Commissioner

ATTEST:

Paul Vogelheim, Commissioner

Sherry L. Daigle, Clerk

Leland Christensen, Commissioner