

**Fremont County Planning
& Zoning Regular Meeting Minutes
August 19, 2009
6:00 pm
County Annex Building**

The Fremont County Planning & Zoning Commission met in a regular meeting on August 19, 2009. They met in the County Annex Building. **Members in attendance were:** Glen Pond (Chairman), John Nedrow (Vice-Chairman), Sam Davis, Steve Pinther, Larry Singleton, Cindy Miller, Jim Gerber, and Steve Trafton.

Staff and others present: Kurt Hibbert (Administrator), Joshua Chase (Planner II), and Letta Laux (P&Z Secretary).

1. Welcome

The chairman called the meeting to order at 6:00 pm.

2. Minutes

Mr. Pond called the meeting to order at 6:00pm.
He asked the P&Z to look over the minutes from May 20, 2009 June 17, 2009, and July 15 2009.

**MR. DAVIS MOTIONED TO ACCEPT THE MINUTES FROM
THE MAY 20, 2009 MEETING. MR. GERBER SECONDED. VOTE
TAKEN: ALL IN FAVOR. MOTION PASSED.**

Mr. Nedrow stated on page 2 of the minutes from June it says "Funny Farm Bridge" and it is actually called the "Fun Farm Bridge". That should be amended in the minutes.

**MRS. MILLER MOTIONED TO ACCEPT THE MINUTES FROM
JUNE 17, 2009 WITH THE CHANGES NOTED. MR. NEDROW
SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.**

**MR. DAVIS MOTIONED TO ACCEPT THE MINUTES FROM
JULY 15, 2009. MR. SINGLETON SECONDED. VOTE TAKEN:
ALL IN FAVOR. MOTION PASSED.**

3. Public Hearing Proposed Short-Term Cabin Rental Ordinance

Mr. Pond brought up to the P&Z that the short-term Rental ordinance has already been through the public hearing process and has since been changed by the County Commissioners and sent back to them for another public hearing. Tonight they will take new testimony on the changed ordinance.

Mr. Pond asked if the notices had been posted properly.

Mr. Hibbert sated yes.

Mr. Hibbert stated there is a new appendix P tonight that they are proposing adding to the code. He explained what those requirements in the code are, and gave brief description of each of the sections of the new code. Staff has recommended that this goes before the public tonight for the public hearing.

Mr. Davis asked about the maximum fee schedule and that the base fees are \$250. Which one of the fees will be used?

Mr. Hibbert stated it will be decided based on the square foot measurement of the rental.

Mr. Davis stated that needs to be changed as it is not clear.

Mr. Pinther stated it does not seem that there is a cap.

Mr. Hibbert stated that the intent is that the county wanted to let people know what the price is upfront but they wanted to allow the county to be able to change the fees without amending the ordinance.

Mr. Pinther stated he did not understand.

Mr. Hibbert stated that was to get some idea of what it will cost. The unit average is \$844 and some will cost less, some will cost up to the \$1155 maximum.

Group discussed what the average rental home will cost the county based on the presumption that there are 300 or so rentals, but understanding that there is no real idea how many there really are.

Mr. Pinther questioned the fee schedule.

Mr. Hibbert stated they put in there for information purposes only and to give guidance.

Mr. Pond opened the public hearing for testimony.

Larry Wilde 1605 Teakwood, Idaho Falls, ID 83401. He is an owner of several renal cabins in Island Park. He is frustrated having so many public hearings on this ordinance. He feels the public testimony is being brought on deaf ears. This resurrection of the ordinance is unnecessary. It needs to go away. He has stayed at several rental cabins

across the country and they do not have ordinances like this. Fremont County does not need to. The only reason the county is doing this is to raise more money. The fees are exorbitant. We should have the freedom to do what they want with their property. They are creating more work for the county. At some time, the rental owners are going to be taxed even more. This is even more regulation. He would recommend that they abandon this completely and not waste time and tax payer money.

Brett Maglebey 3525 Merlin Dr. Idaho Falls, ID 83404 stated he is on the executive committee (EAST DISTRICT VICE PRESIDENT) stands on behalf of Idaho realtors. This ordinance is a significant intrusion to the property rights of the owners, and will have the potential to hurt the tourism economy. They understood that this new draft would be given to them for the opportunity to give their input towards the development of the ordinance. They were not given the opportunity to provide input. They were not given notice that this most recent draft was even written. This has not been reviewed by our attorney as of yet. He asked if their attorney's statement had been read by them and stated that they had sent the comments to the BOCC. Many problems are able to be addressed by the powers that the county already has. No other resort communities have adopted this type of ordinance. It is unclear how the properties would be made to gain compliance with the IBC. Code compliance issues could add significant cost. They were alarmed at the advertised as a "Party House" ordinance. They are glad that the ordinance name has been changed. They are concerned about the maximum occupancy load. The county wants to apply regulations to the rental homes that do not apply to residential homes. They are not against doing some type of ordinance. This ordinance states that it is to protect the health, safety, and welfare of the citizens. It really does not show how that will do that at all. There are concerns about that. The penalties seem very high. Our economy is struggling, and by putting this in there, some cabin owners will possibly have to put their properties up for sale. Homes will go down even more in cost.

Joan Whitaker PO BOX 543, Island Park, ID 83429 owner of Rainbow Realty. Stated she feels the same as Mr. Maglebey and that this is too steep. Many times they are asked when people purchase homes if they can rent out the homes. There are a few subdivisions that do not allow renters. They do not want to make a lot of money. They just want to be able to offset the costs of the property taxes, insurance and etc. These people bought homes with the intent of renting them out. The majority of the buyers rent out their homes a few times a year. If this goes through she would project that half of those homes would go on the market. We already have 225 cabins on the real estate market. At this rate, the economy will be flooded with properties for sale in Island Park. The renters also use the other services available in Island Park including Bars, Restaurants, etc. There have been problems, but not this bad. This will cause a lot of problems for all of Fremont County. Our market is down way over 50%. She questioned if the motels and lodges have the same regulations. It is not fair for the cabin owners to have these regulations for us and not them. It has to be fair. This will hurt us more than it would be a positive thing for the county.

Mr. Gerber questioned if she knew how many rental cabins there are.

Mrs. Whitaker stated they are making a mountain out of a molehill. She does not know for sure.

Mr. Trafton questioned how they handle the issues that come up.

Mrs. Whitaker stated there is a contract that the renters are required to sign. There is no allowing of trailers, or pets, and they remind them to follow the speed limit. "Do unto others" is what they tell their renters. Our people have their septic tanks pumped regularly. They are trying to do the best they can and they have a property manager that is on call 24 hours a day. If there are other ideas they would be glad to consider them.

Chan Atchley 4077 E 1300 N Ashton, Id 83420 is speaking on behalf of the Smart Growth Coalition. Stated when considering this ordinance, we need to look at fairness and also property rights. Fairness comes into play when resident owners expect to have a quiet place to live and then find out they are living next to a "hotel-like" setting. The solution is not easy and there are those who will be at a disadvantage. They have to look at the health, safety, and welfare of the renters and the residents. Occupancy Taxes are often not being raised and the money is not coming back to the local economy. There is a problem with the environment concerning water pollution. At some point there will be a serious problem. Many of the septic systems were engineered for a single family, not the numbers of people that stay in these rental cabins. This ordinance will help control that. This is a responsible and pro-active way to get the job done before there are problems. They have thrown around 88 homes that are rental cabins, but there is probably closer to 300. There is a big economic problem. There are only 18 Innkeepers in the county. They can not compete with the rental cabins. There is no economic incentive for motel or hotel owners. The ordinance itself is fairly well written. They should move forward on it quickly.

Marla Payne 3860 Bill's Loop Road, Island Park, ID 83429 stated she has been coming to these meetings for several years. She was concerned with the "Party House" title. They should be ashamed of placing that title on the ordinance as it was inflammatory. She is a realtor and she believes that the realtors support and are committed to protecting private property rights very seriously. It is so lop-sided. You are not being fair in who you are regulating against. They are held to a higher standard than the inn-keepers. We target a completely different market as we target families. We do not have a need for all these regulations. Every time you regulate something, you take away rights. We take the safety of the renters very seriously. We also have an on-call 24/7 property manager. They need to be extremely careful about adding more burdens to the economy. There is going to be a huge economic impact for the county. It is time to move on and work together, but get past this ordinance that is not needed. They are taking care of it in the marketplace. Do they want Island Park to be a recreation community or a retirement community?

Kevin Stevens 1438 Potpourri Dr. Ashton, ID 83420 stated they have a rental cabin in Island Park. He has attended this meeting as a concerned citizen. It seems that the public testimony is falling on deaf ears. Sun Valley has rental regulations and they are the only one in the State of Idaho. He questioned if there is going to be a level playing field? Is

the county going to walk into the Inn-Keepers places regulating them the same way the renters? They only have renters 90 days a year. They take care of the septic tank. The covenants regulated. Let's not have more government regulation. He does pay taxes and pays rental taxes and the 88 cabins are paying renters taxes. He is paying his fair shares. The fees are based on 300 cabins that are out there. Fees are going to go up when the others don't pay. The home owners are the ones that cause the problem. He charges a \$500 fee for anyone that ruins their property. There are laws in place that take care of the problems. The ordinance is 10 pages long and they are way overdoing this and way over-regulating. The public has already spoken. He does not understand why their voices have not been heard.

Staci Stevens 1438 Potpourri Dr. Ashton, ID 83420 stated she completely agrees with everyone else's testimony except for Chan Atchley's. If we have to pay the fees, we will put the house on the market.

Terri Ehresman 1711 Claremont Lane Idaho Falls, ID 83404 stated they own a cabin in Island Park. Sometimes there are cars and trailers and a lot of vehicles. There are problems with these rental cabins and there are some that could definitely be called "party houses". We are life time residents and some people don't treat our area the same way. We have placed "No Trespassing" signs up on their property because of issues with people coming on to their property whenever they want. They have had to call the Sherriff to go and talked to the renters when there were 44 of them staying at that house. There was nothing that the sheriff could do. They broke their trees and caused other issues. They use fire pits and those are a big concern for fire safety. It is very frustrating to have a nice cabin when people are always on their property. We need someone to help us protect our property rights.

Kim Ragotzkie 580 Maple Leaf Ashton, ID 83420 stated she is speaking on behalf of Henry's Fork Foundation. The short term rentals are a big part of the area. She read from a letter that is in the file. A lot of renters do not understand the animal issues. They need to have education for the renters regarding these problem bears. They support the adoption of the ordinance.

Lori Augustin 4146 Huckleberry Island Park, ID 83429 stated she has lived in Island Park since she was 10 and she has experienced some of the same problems. There has been no documentation of the written complaints of these rentals. Fremont County needs to be more forthcoming. The concerns stated for this ordinance were written and are in the file. She read from the written list of concerns. Vacation renters and the owners are not the enemies. How can you regulate people's behavior? This ordinance will not result in a favorable outcome. She recommends that this be dropped by the BOCC. Help to mitigate the problems rather than just add regulations and fees. They should gather the owners and renters together to have discussions about the problems. They should work together to help resolve the problems.

Rod Hughes 2730 East View Idaho Falls, ID 2430 read a letter given to Mr. Hibbert it is in file. His family has been visiting Island Park for years. The opportunity to own a cabin

only comes with the ability to rent that cabin out. They keep their cabin well maintained and he does not know what the motivation is for Mr. Hibbert to write this ordinance; he must be biased towards a special interest group.

Mr. Pond stated to clarify that Mr. Hibbert did not write this ordinance on his own and that this ordinance only came about at the request of the County Commissioners and it is not fair for him to blame Mr. Hibbert personally for the ordinance. He is only doing what the commissioners ask him to do.

Blake Neil 3194 N 3900 W Plain City, UT 84404. Stated he owns a cabin in Island Park. He has never seen anything more restrictive. He would be concerned sending this forward. There are several problems and their legal council stated this is discriminatory. There may be issues with revenue. They will lose a lot of revenue. There are several amenities that rental cabins offer that a hotel can not.

Ron Larson 4026 Kick-a-poo Lane, Island Park, ID 83429 stated he is the general manager of Lakeview resort. He would like to see that the playing field is even. He has to pay taxes and he would like to know that the cabins that he rents meet the same requirements that the other places have to meet. He expects to build and meet the requirements by Fremont County. Do to all and not just to one.

Michael Green 4517 Porcupine Lane Ashton, Id 83420 stated he has a lot of sympathy for the water issues and the Henry's Fork Foundation. The fees are going to knock him out of business. He does pay taxes on sales and use. These regulations will keep him from having the rentals. There are several issues in their subdivision, but it is difficult for the county to regulate them.

Kristine Inskeep 4121 Quakie Lane Island Park Id. Stated she has a few issues with the ordinance. They bought commercial zone property so they could build on the commercial property. She questioned zone designation and wonders if they need different zoning for their property. She also wonders what the renewal fees would be on their 5,000 sq ft home. They have all the information that is requested of the renters in the contract as well as a book in the cabin. Can they put up the Willow Inn sign? They take care of the trash on their own. Do we have to pay for a trash collection service? They have many problems with the guests that stay at the adjacent hotel trespassing. Can we have personal signs? They do invite 34 family members up to their house for the holidays and according to the ordinance, they will have an occupancy restriction. The fees do not seem unreasonable, but after watching what is going on in this county, it seems the government just wants to take more and more of their rights away.

Mr. Pond closed the public hearing.

Break for 5 Minutes.

MRS. MILLER MOTIONED TO TABLE THE DISCUSSION FOR THE CABIN RENTAL ORDINANCE UNTIL AFTER THE PUBLIC HEARING FOR THE GRAVEL PIT ORDINANCE. MR. GERBER SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

4. Public Hearing on the Proposed Gravel Pit Ordinance

Mr. Pond asked Mr. Chase to report on the gravel mine ordinance.

Mr. Chase stated there were a few sources they used to come up with the code. They used other jurisdiction's ideas as well as the ideas from the land use advisory committee that looked at the future areas for gravel mining in the county. He described the process they used to gather the information that went into this ordinance.

Mr. Nedrow stated for clarification that the document is still only recommendations and has not been accepted as code yet.

Group discussed what part is up for deliberation.

Mr. Hibbert clarified where the 1500ft setback came from. He stated several other areas had a mile setback, and he thought that was too much so he cut it in half. It is up for discussion and not set in stone.

Mr. Pond asked if all the proper notices had been posted.

Mr. Hibbert stated they had.

MR. DAVIS MOTIONED TO OPEN PUBLIC HEARING FOR THE GRAVEL PIT ORDINANCE. MRS. MILLER SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

Mike Parker 247 N 3000 E St. Anthony, ID 83445 from Parker gravel stated they like appendix J. Our pit is a small pit and coming up with a specific timetable is difficult for them. It is hard to guess how long it will take them to deplete the mine. There is also an issue for the letter of credit. It is unfeasible for him to put that money aside in a bank. He is too small of a company and just does not have that kind of money. The 1500 ft. setback would cause him not to have a business on the property he is looking at. He is all for hiding pits and keeping them clean. If you allowed us to put outdoor storage areas that are obscured they can have their office and storage area. There is a lot of wasted ground. Otherwise, he likes the ordinance. Do consider the houses in front of the gravel pits in addition to the setbacks.

Mrs. Miller questioned how Mr. Parker felt in regard to the reclamation?

Mr. Parker stated what is required now by the stated is that they have to slope the sides and replant it. They also have to put the dirt in the hole and grass that as well. It does not seem fair to require more than what the state requires.

Mr. Pinther questioned if he was recommending a setback of 800ft? He also questioned if he felt that the stockpile would be ok with them as well.

Mr. Parker stated he would not have a problem with that.

Mr. Hibbert asked where he saw that the other buildings were prohibited...E7... You still could build a shop there. He will clarify that better.

Reed Hill 9200 Outlaw Pass, Rexburg, ID stated he appreciates this ordinance that will allow the use of gravel mining in our area. He agrees with most of what Mr. Parker said. He would recommend that the setbacks be a lot shorter (around 500ft) because they want to maintain the roads closer to the main roads that can handle the heavy loads that are generated by gravel pits.

Karl Lewies 343 E 4th North Rexburg Id representing Mr. David Walters from Walter's Ready Mix passed out a letter and read from it. It has been entered into the file and is part of the public record. Mr. Walter's main concern is for the setback at 1500ft. He feels it is too large. He recommends a 300ft. setback.

Mr. Pond asked if they were assuming that all the gravel mining areas would be along Highway 20.

Mr. Lewies stated no.

Mr. Chan Atchley 4077 E 1300 N, Ashton, ID 83420 stated this is a good approach to a long-term problem. The biggest concern is what it looks like around the gravel pits as well as the dust and the noise. Mr. Lewies has a great point about highway 20. He is torn, because as he thinks they should be off the highway, but they need to be able to consider the road conditions. Is it appropriate to have a buffer distance stated in the ordinance, rather than having it depend on the type of buffering? He agrees with the ordinance as an individual, and has not heard from Smart Growth as for how he can speak on their behalf.

Reed Nord 190 N 4500 E Rigby, ID 83442 stated he is grateful for the county starting to get something written so that people know what is required of them. There needs to be a beautification program. A 300-400 ft setback should be sufficient and should also have some water rights so they can water the landscaping. They just want to know that everyone has to do the same thing. The 1500Ft. Setback is too long.

Kara Lee Ricks 100 S Maple Sugar City, ID 83448 stated she has a neutral stance but appreciates the ordinance. She wants to encourage them to look at Madison's County's Ordinance for Gravel Pits.

WB Kramer 3231 Merlin Drive Idaho Falls, ID representing HK Construction Inc stated that he agrees that the 1500ft setback is too long. Regarding Item 11c (operating standards), one of the latest innovations is to recycle the old asphalt and made into new materials. It cuts down on the waste. The new HK plants in IF is running 15% recycled asphalt. It saves on the amount they have to buy and they might want to look at that. Regarding Item 12 (ground-water protection), he is not aware that DEQ has any regulations for this.

Greg Stoddard 2205 E 200 N St. Anthony, ID 83445 stated he appreciates their work and dedication to get this ordinance written. He agrees with most of the things spoken on tonight. As gravel miners, they are “harvesting” the gravel. In harvesting we are similar to what farmers do. We look at the two kinds of operations and see them as very similar. Regarding hours of operation, 95% of the time those hours are ok, but sometimes they need to start earlier or go a little later. He asked them to look at that. We have more than just gravel at our pit as we also have a lot more construction material there. They also have asphalt product and concrete material waste. They do recycle it and make road base or resell it to places like HK. The timetable is also difficult to guess on. Regarding the Letter of Credit, it can be very expensive because you have to have the money in the bank, and that can cripple a company. See if the bond that the State has in place would take care of that. The 1500ft. setback is excessive. It helps for safety issue to stay out of the residential areas as well as cutting down on the number of road ways being torn up. Realize that they do pay registration taxes and fuel taxes on each truck they have which comes back to rebuild and maintain those roads. Bonneville County has a setback of 300ft.

Marla Vic Fremont County Public Works Director stated she agrees with a number of the testimonies. She agrees that the 300ft. setback would be better as it would cause there to be less of an impact on county roads. She questioned item C8 and what is a “durable” surface? They need to clarify the regulations regarding stockpiling. Not sure if the “professional” needs to be clarified. She also asked that they not mix in back and side yards with buffer zones. She also questioned the Riparian Vegetation definition.

Mr. Pinther stated he is concerned with the 25ft limit for stockpiles.

MR. SINGLETON MOTIONED TO CLOSE THE PUBLIC TESTIOMONY PORTION OF THE PUBLIC HEARING. MR. GERBER SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

Mr. Hibbert stated it is very important for everyone to understand that this appendix is for gravel mining only. It does not cover asphalt or other manufacturing plants. Gravel extraction only does not require zoning change, but the others would be required to be located within industrial zones. Asphalt and other sites will require a separate permit. The letter of credit is difficult to get and he would recommend that they strike that. He does

not know if the State Bond would cover that adequately. There is a development agreement required. Those can be negotiated in front of this board at the time they are getting approval. We can be flexible. The setback is not a set number. They do need to have something better than what they have today.

Mr. Davis questioned if they are trying to prevent China mines and what is in this to prevent depth and also he did not see reclamation criteria.

Mr. Hibbert stated they are not going to have specific recommendations on how to reclaim it, but they do need to submit a plan that they want to do and can be discussed at the time of approval.

Mr. Pinther questioned where the language regarding ground water came from.

Mr. Hibbert stated it is from the DEQ.

Mr. Pinther stated the only buffering requirement they are dealing with is the setback. No trees or buffering.

Mr. Hibbert stated appendix K will require all the buffering.

Mr. Chase stated appendix K has the means to reduce the buffer width.

Mr. Hibbert stated the timeline is not a big deal. They can decide the timeline they want. There would definitely be flexibility for that. We can not see that far into the future. They could add language that includes an extension.

Mrs. Miller questioned the hours of operation and if they need to look at those.

Mr. Hibbert stated they can change the language so it is clearer.

Group discussed the setbacks and the requirement for buffering. Group decided on 500ft setbacks.

MR. PINTHER MOTIONED TO ACCEPT APPENDIX J WITH THE CHANGES IN THE FOLLOWING AREAS: THE WATER, IN THE SENTENCE ON C12 THAT WAS DISCUSSED, AND THE CHANGE IN THE HOURS OF OPERATION FROM 7AM-7PM, THE CHANGE REGARDING THE LETTER OF CREDIT TO THE BOND OR CASH DEPOSIT, THE CHANGE IN E7 FOR THE BUFFERING SETBACK TO BE 500FT FROM THE HIGHWAYS. MR. DAVIS SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

Group discussed

MR. PINTHER MOTIONED TO DENY THE RECOMMENDATION FOR THE CABIN RENTAL ORDINANCE. MR. SIGLETON SECONDED. VOTE TAKEN: THOSE IN FAVOR: PINTHER, SINGLETON, MILLER, GERBER, AND DAVIS. THOSE OPPOSED: TRAFTON AND NEDROW. MOTION PASSED.

Mr. Chase stated they are

5. Ordinance Amendments.

Tabled until next time due to the hour.

6. Administrator's Report.

Tabled due to the next time.

7. Adjourn

Meeting Adjourned at 10:21 pm.