

9/3/2009 - Final

**MADISON COUNTY COMMISSIONERS
MEETING AGENDA**

September 8, 2009 8:00 a.m.

COMMISSIONERS ROOM

Madison County Commissioners

Kimber Ricks

Robert Hansen, Chairman

Jon O. Weber

8:00 a.m. County Business:

New Business:

Commissioner Assignment Reports & Correspondence

Commissioner Board and Committee Reports

Claims

Certificate of Residency for Rachel Hancey

Road Department Organization

9:45 a.m. Apex Alarm Project - Misty Berger, Parks & Recreation
Planning and Zoning

10:00 a.m. Findings of Fact for: Jason Scott Earl Conditional Use Permit

10:30 a.m. Steve Hoble, Weed and Mosquito Department

11:00 a.m. **Health and Welfare - Executive Session (Idaho Code 67-2345-1(d),
exempt records**

11:30 a.m. Ryan Kaufman/Wendell Roth Re: Power Reduction Proposal

12:00 Noon County Business:

Review Insurance Options

Adjourn

**Madison County Commissioners will not meet at the regularly scheduled Meeting
September 14, 2009.**

**NOTICE: Meeting is Open to the Public Except For Executive Sessions.
ANY PERSON NEEDING SPECIAL ACCOMMODATIONS TO PARTICIPATE IN
THE ABOVE NOTICED MEETING SHOULD CONTACT THE
MADISON COUNTY CLERKS OFFICE 48 HOURS PRIOR TO THE MEETING.
IT IS ASSUMED THESE SCHEDULED TIMES ARE CORRECT.
THERE ARE TIMES WHEN THE SCHEDULE WILL BE ADJUSTED ACCORDINGLY.**

**MADISON COUNTY
COMMISSIONERS MEETING MINUTES
September 8, 2009 8:00 a.m.
COMMISSIONERS ROOM**

Present: Commissioner Robert Hansen, Chairman, Commissioner Kimber Ricks, Commissioner Jon O. Weber, Attorney Troy Evans, and Clerk Marilyn R. Rasmussen

Certificate of Residency: Commissioner Ricks made a motion to approve the Certificate of Residency for the College of Southern Idaho for Rachel C. Hancey, Commissioner Hansen seconded and voting was unanimous.

Claims: After review of the claims submitted by the Elected Officials and Department Heads in the amount of \$277,789.37, for September 8, 2009, Commissioner Ricks made a motion to approve, Commissioner Weber seconded and motion passed.

Road Department: This item will be tabled until September 28, 2009.

Misty Berger, Parks and Recreation Department reported that she will prepare suggestions and plans for the Madison County Parks in the event that APEX Alarms donates funds for this purpose.

Planning and Zoning:

Commissioner Hansen entered the Findings of Fact into record for Jason Scott Earl's request for a Conditional Use Permit.

**FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATIONS
OF THE MADISON COUNTY PLANNING AND ZONING COMMISSION**

RE: Jason Scott Earl Conditional Use Permit

The Madison County Planning and Zoning Commission held a public hearing on August 13, 2009 at 7:15p.m. at the Commissioner's Room in the Madison County Courthouse, Rexburg, Idaho to consider the Jason Scott Earl request for a Conditional Use Permit to have a private swimming pool used for public swimming lessons in a Transitional Agriculture Two zone. This building would be located at 3968 Taylor Lane on 1.1 acres in the Taylor Falls Subdivision located in the Hibbard area.

The entire meeting was recorded to allow for preparation of a transcribable verbatim record of the hearing.

The following members of the Madison County Planning and Zoning Commission ("Commission") were present at the public hearing: Chairman Dean Peterson, Vice Chairman Ed Williams, Jolene Sutton, Bradley Petersen and Millie Andrus. Those unable to attend: Barrett Wilcox, Anthony Merrill and Legal Counsel Troy Evans. Madison County Planning

and Zoning Administrator Brent G. McFadden and Coordinator Shauna J. Ringel also attended representing Madison County.

No media were in attendance at the meeting.

The public hearing was called to order by Chairman Peterson. Shauna J. Ringel acted as clerk for the meetings. Chairman Peterson questioned Mr. McFadden as to whether or not notices of the hearing had been properly published, posted and provided. Mr. McFadden stated all required legal notices had been given. The Chairman asked if there were any conflicts of interest. None were stated.

Jason Scott and Natalie Earl, 3968 Taylor Lane, Rexburg gave their presentation on behalf of the request for permission to give private swimming lesson in their own swimming pool. The presenters were asked questions by the Commission.

After hearing the presentation by Madison County officials, and from the applicants on behalf of the Jason Scott Earl conditional use permit, the Chairman asked for those in favor, in neutral, or opposed to the proposal to come forward and be heard. Chairman Peterson reminded the citizens in attendance that they must sign up on the appropriate lists if they wished to speak.

Those in favor were: None

Those in neutral were: None

Those opposed were: None

A summary of this discussion at the hearing is attached hereto and incorporated herein.

Written comments from Christine and Clark Gilbert, Robert and Michelle Wahlquist, Kevin E. Willmore, Brian and Mary Schaat, Kyle and Lexie Kunz, Spring McDonald, Michael and Jenifer Whitesides and Kimberly Eagar were received and all were in favor of the swimming lessons in the private swimming pool belonging to the Earl family.

There being no further comments, the public hearing was closed. The Planning and Zoning Commission noted that any recommendation they would make would be tentative, pending final approval from the Board of County Commissioners. The Commission then deliberated the Jason Scott Earl request for a Conditional Use Permit to hold private swimming lessons in their own swimming pool in a Transitional Agriculture Two zone. A summary of this discussion at the hearing is attached hereto and incorporated herein.

Having given due consideration to the application and evidence presented, the Planning and Zoning Commission hereby makes the following findings of fact:

FINDINGS OF FACT

- 1) Public hearings were held August 13, 2009 to take the testimony on a requested Conditional Use Permit. This proposed amendment is consistent with the goals and objectives of the Comprehensive Plan.
- 2) Notice was published in the legal County newspaper, the Standard Journal July 29, 2009 as required. The published notice included an appropriate and accurate summary of the issues to be heard. Copies of the notices were made available as requested and were provided to political subdivisions within the planning jurisdiction at least 15 days prior to the hearings. Copies of the notice were sent to all residents within the 300 feet, as required, on July 31, 2009.
- 3) At the beginning of the hearing, Chairman Peterson asked whether proper notice of the hearing had been provided. The Planning and Zoning Staff answered in the affirmative, discussing what notices had been provided.
- 4) The Public hearing was scheduled at 7:15 p.m. all as set out in the published notices, as described above.
- 5) The meeting agenda was available prior to the meeting, and the public hearing followed the order of events listed on the agenda. The Madison County Planning and Zoning Administrator gave an explanation of the subject of the public hearing. An opportunity was provided for the applicants and members of the public to present testimony, which was followed by members of the Madison County Planning and Zoning Commission. Public testimony was closed after all present had been given an opportunity to submit oral or written testimony. Reasonable time limit was imposed on oral testimony.
- 6) Madison County's Zoning Ordinance No. 176 outlines the purposes of a conditional use permit standards as follows:
 - A. Will, in fact, constitute a conditional use as established in this title for the zoning district involved, in that it is not already defined as a permitted use.
 - B. Will be harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan and/or the zoning ordinance.

- C. Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
 - D. Will not be hazardous or disturbing to existing or future neighboring allowed uses.
 - E. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewer and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
 - F. Will not create excessive additional requirements at public cost for public facilities or services, and will not be detrimental to the economic welfare of the community.
 - G. Will not involve uses, activities, processes, materials, equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
 - H. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
 - I. Will not result in the destruction, loss or damage of a natural scenic or historical feature of major importance.
- 7) Approval of the proposed Conditional Use Permit change is in the best interests of the people of Madison County.

CONCLUSIONS AND RECOMMENDATIONS

1. Notices of the Public Hearing held to consider approval of the Conditional Use Permit was published and provided as is required by Idaho Code §§67-6509 and 67-6511.
2. The Public Hearing was held to consider approval of the proposed Conditional Use Permit and was conducted in accordance with the requirements of Idaho Code §§ 67-6509 and 6511 as well as Madison County Zoning Ordinance No. 176.
3. A transcribable verbatim record was made and kept of the

Public Hearing held to consider approval of the Conditional Use Permit, in accordance with the requirements of Idaho Code §§ 67-6536.

4. The proposed Conditional Use Permit is an appropriate exercise of the planning and zoning responsibilities established by Idaho Code §§ 67-6501 *et. seg.*
5. Approval of the proposed Conditional Use Permit change is in the best interest of the people of Madison County, Idaho, based upon the following:
 - a. Must be reviewed yearly by the Planning and Zoning Administrator.
 - b. Must have a letter from Eastern Idaho Public Health saying their septic system would be large enough to handle the extra usage.
 - c. Must enlarge the parking area of the existing driveway.
 - d. Must plant a screen of trees and bushes on the west side of their property in the buffer zone. The screen must be in one year.
 - e. Hours of operation would be from 8:00 a.m. to 9:00 p.m., Monday through Saturday.
6. These Findings of Fact and Conclusions of Law are maintained and submitted in accordance with Idaho Code § 67-6509.

Commission member Ed Williams made the motion to approve the request for a conditional use permit with the conditions listed above. Commission member Millie Andrus seconded the motion. The vote was unanimous.

CONCLUSION

Based upon the foregoing Findings of Fact, Conclusions and Recommendations, the planning and zoning procedures conducted throughout the county, the comments received at the public hearing held hereon, and the deliberation of the Planning and Zoning Commission, the Commission hereby recommends approval of the requested Conditional Use Permit

The applicant may appeal in writing this decision of the Commission relative to any action taken by the Commission, as long as the appeal is submitted to the Board of County Commissioners within then (10) days

from such Commission action, per the Madison County Zoning Ordinance, No. 176.

After review of the Findings of Fact submitted by the Planning and Zoning Commission, **Commissioner Ricks made a motion to approve the Findings of Fact for Jason Scott Earl's Conditional Use Permit to have a private swimming pool as recommended by the Planning and Zoning Commission, Commissioner Hansen seconded and voting was unanimous.**

Steve Hopley, Mosquito and Weed Department reported the following items of Business: 1) The new Mosquito and Weed Building is progressing on schedule. 2) He also requested an increase in salary for Maxine Berger as she works one hour each day for his department. 3) The Cooperative Weed Management area is considering reorganization. It is being suggested that Madison, Fremont and Teton would be one area and Jefferson, Bonneville and Bingham be in another area. It is felt that this would be more efficient in handling the weed program. 3) The Transfer Station, Road Department and Mosquito Department are in the process of hooking up to the City sewer services.

Health and Welfare: Commissioner Hansen made a motion to go into Executive Session at 11:00 a.m., pursuant to Idaho Code 67-2345-1(d), exempt records, Purpose of Executive Session: Health and Welfare cases. (Commissioner Hansen – yes, Commissioner Ricks – yes, Commissioner Weber) Commissioner Hansen returned to Open Meeting at 11:10 a.m. Commissioner Ricks made a motion to deny Case Numbers 2009042, 2009043 and 2009023, sign approval for Case Number 2009041, forgive payments for Case Number 940729, sign lien for Case Number 2009044, Commissioner Weber seconded and voting was unanimous.

Under Sheriff Ryan Kaufman and Wendell Roth, Transfer Station:

The Sheriff's Office will complete the work for the Rocky Mountain Power Energy Savings Contract for the variable drive contract for the heating system in the jail, lighting and motion sensor lighting by September 30, 2009. The approximately \$5,000 match will be taken from the Courts Buildings and Grounds Budget line.

The Transfer Station Rocky Mountain Power Contract has not been signed and Glen Pond is getting the County another copy for review and approval. **Commissioner Hansen made a motion to authorize approval of the Transfer Station Contract with Rocky Mountain Power after getting the new copy from Glen Pond, Commissioner Weber seconded and voting was unanimous.**

Chamber of Commerce Proposal for the Co-op Property:

Donna Benfield, Daryl Olsen and Ted Austin met with the Commissioners to suggest that the County postpone the sale of the property in order for the Chamber to find a way to purchase the property. The Commissioners stated that the bid opening for the Co-op property is scheduled for October 5, 2009,

and at the present time they felt it was in the best interest of the County to proceed with the sale.

2010 Medical Insurance Options: Commissioner Hansen explained that about 20% of the employees have met the deductible which is down from last year. He is now looking at insurance information to determine whether or not the County can afford to go to a \$2,000 deductible. He also reviewed the pros and cons of the other company's option that had been presented by Carlos Aponte. At present, he stated that the information presented to the County has not been sufficient to make a decision and he needed to gather other statistical information before the Commissioners could make a final decision. Commissioner Hansen made a motion to adjourn at 12:35 p.m., Commissioner Ricks seconded.

Approved:

Robert Hansen, Chairman

Kimber Ricks

Jon O. Weber