

## **COMMISSIONERS MINUTES JULY 11, 2012**

The Elmore County Commissioners met in special session on the above date in the Commissioners Room, basement of the Elmore County Courthouse, 150 South 4<sup>th</sup> East, Mountain Home, Idaho.

Present at the meeting were Chairman Arlie Shaw, Commissioners Al Hofer and Wes Wootan. Also present were Civil Attorney Buzz Grant, Clerk Barbara Steele, Deputy Clerk Shelley Hooper, local firefighters Brian Reed, Larry Jewitt and Bud Corbus, Mountain Home Fire Chief Alan Bermensolo, Idaho State Fire Marshal Mark Larson, Bob Ruth of the Oasis Volunteer Fire Department and Growth and Development Director Alan Christy.

The purpose of the special session was to hold a workshop regarding the burn ban.

There was an Open Burning Ban Resolution approved on June 28, 2012 and Attorney Grant is in the process of drafting a Burn Ban Ordinance. Chairman Shaw stated that they are still unsure of how to handle the use of burn barrels and fire rings or pits. Mr. Reed stated the International Fire Code has a definition separating bon fires, open burning and what is considered recreational fires. The recreational fire definition states it is a fire in a pit which is less than thirty six inches in diameter and the material to be burned is not higher than two feet, to be used for recreational purposes such as cooking food, roasting marshmallows, etc. Mr. Jewett questioned how to handle an imposed Forest Service Burn Ban in the National Forest, prohibiting open burning, even in containers, because the National Forest encompasses the Pine/Featherville area. Mr. Corbus stated that in the past, when the Forest Service imposed a burn ban in the National Forest, law enforcement officers also enforced the ban on private property within the boundaries of the National Forest. Mr. Larson suggested referencing in the ordinance, that if county property is located in the National Forest boundary, then the Forest Service restrictions would supersede the county's restrictions if there were a burn ban imposed.

Chairman Shaw questioned how Agricultural Burns (Ag burns) are handled. The way Mr. Corbus understands it is the Idaho Department of Lands (IDL) has a data base that controls burn permits. When someone needs to do an Ag burn, they need to contact the IDL for a burn permit. The approval for the burn permit is put into the data base. IDL will notify the Department of Environmental Quality (DEQ), who will give a time frame of when the burn can be done. A listing of approved burn permits is available on IDL's website, [www.idahofireinfo.blm.gov/southwest/](http://www.idahofireinfo.blm.gov/southwest/), so local fire departments can be aware of the burns. Mr. Jewett suggested incorporating the permit procedure into the County ordinance so everyone goes through the proper channels. Commissioner Wootan stated that farmers currently call local dispatch and let them know they are going to do an Ag burn. He feels the farmers may get frustrated with having to go through so many channels. Chairman Shaw was concerned that sometimes dispatch gets extremely busy with emergencies and may not be able to follow through with the Ag burn phone call, so

the farmers following the proper channels instead may be the safest thing to do if they want to do an Ag burn. Mr. Larson suggested the ordinance include that Ag burns be done in accordance with other State requirements to put the responsibility of properly burning Ag land back on the farmer. Discussion followed.

Mr. Bermensolo discussed fires caused by burn barrels or recreational fires such as fire pits and backyard barbeques. He stated the burn barrels are the cause of most fires. People pay closer attention to their fire pits and barbeques than they do burn barrels. He suggested carefully considering which types of outdoor fires will be banned so the ordinance isn't too restrictive. As Fire Chief, his main goal is the preservation of life and property and the ordinance should be written as such that when life or property has been jeopardized, someone can be held responsible.

Mr. Jewett continued the discussion of Ag burns. He stated the Ag burns are usually well controlled and the fire getting out of control is not an issue. He was concerned about how DEQ may react if they were not involved in the burn. Chairman Shaw referred to the earlier suggestion of making reference to the State requirements in the ordinance and to also make sure local dispatch is informed of the burn. Attorney Grant suggested stating in the ordinance, when conditions permit, local dispatchers will attempt to contact Idaho Department of Lands, but ultimate responsibility will be on the person conducting the burn. Commissioner Hofer questioned whether dispatch would tell someone not to burn if there were high winds. Mr. Bermensolo was unsure if dispatch would warn someone of the risk of burning in high winds. It is stated on the burn permit that no burning should be done during high winds and to inform dispatch before you start the burn. To his knowledge, dispatch has never told anyone not to burn because of high winds. Mr. Ruth stated his department has been called out to several fires such as tire piles and garbage burns and made the individuals put the fires out. So far they have not had any resistance, but in case someone does not want to comply, they can reference the ordinance. Fines and restitution costs will also be incorporated into the ordinance. An initial fine of \$100.00 will be charged for the first violation. Restitution fees will also be charged for the costs of fighting the fire.

Attorney Grant questioned whether the County can impose this ban on Bureau of Land Management (BLM) land until such time as BLM sets some sort of restrictions. Mr. Larson stated that cities and counties have certain duties to the general welfare of the public and hopefully BLM won't have an issue with a burn ban. Attorney Grant was also concerned with the fact that lands inside fire districts are excluded during a burn ban. Mr. Larson stated that even though fire districts are excluded, there are probably several districts who would welcome a county wide burn ban to have an opportunity to work together for general public safety.

Chairman Shaw explained that the ordinance can be written so that by resolution, it can be changed year to year to accommodate different time frames for the burn ban to be in effect. Mr. Reed agreed that some areas may need burn bans implemented at different times. A burn ban may need to be imposed in the city due to dry conditions, but not necessarily in the hills because they are still green.

Attorney Grant continued the discussion of the land in fire districts being excluded from the burn ban ordinance. He is reluctant to include the fire districts in the ordinance since they have always been excluded. Mr. Larson thought if there is a legal concern of the ordinance infringing on the authority of a fire district if you included them in the ordinance, then keep them excluded and the district can pass a resolution stating they will follow the county ordinance if they choose to do so. Attorney Grant agreed that keeping the fire districts excluded and having them implementing a resolution to follow a County burn ban if they so choose would be the most logistical way to handle that issue.

Attorney Grant will draft the ordinance so that definitions and areas can be changed by implementing a resolution, but the base ordinance will still be in place. For example, the hills can be excluded earlier in the year if it is still green up there, but there are dry conditions here in the city. Certain activities can also be added or subtracted depending on circumstances and conditions.

A recent wildfire caused an underground fire at the Bennett Road Landfill. The Board asked if anyone had any experience or ideas on the best way to extinguish the fire. Mr. Bermensolo stated that water will not work, it will only steam and evaporate. Mr. Corbus stated that they would have to excavate and bury the fire with dirt. Discussion followed.

Motion by Shaw, second by Hofer, to adjourn the special session workshop regarding the fire ban ordinance and go into emergency special session to discuss the fire at the Bennett Road Landfill.

**SHAW..... -AYE**

**HOFER..... -AYE**

**WOOTAN..... -AYE**  
**so ordered.**

**Motion carried and**

Commissioner Wootan will contact excavating companies in the area to see who has equipment available to do the fire suppression work at the landfill. There was a question of how to handle what company to hire, if bids need to be accepted, etc. Attorney Grant stated that the Board needs to declare that an emergency exists and pass a resolution stating that due to the fire at the landfill, emergency action needs to be taken to extinguish the fire and the bid requirements are not applicable, as permitted under the statute.

Motion by Shaw, second by Hofer, that the Board of County Commissioners declares that an emergency now exists due to the underground fire at the Bennett Road Landfill and, in the best interest of the public, it is necessary to make an immediate expenditure of public funds to do emergency work to safeguard life, health and property and any funds the County needs to extinguish this fire are hereby approved. Commissioner Wootan is authorized to take the lead on the project and will update the Board on the progress.

**SHAW..... -AYE**

**HOFER..... -AYE**

**WOOTAN..... -AYE**  
**so ordered.**

**Motion carried and**

Attorney Grant contacted Idaho Counties Risk Management Program (ICRMP) to discuss possible coverage for fire suppression at the landfill.

A short recess was taken.

Regular session resumed.

Attorney Grant spoke to ICRPM underwriter Sherry Harman. Ms. Harman met with her supervisor regarding the question of whether fire suppression was covered under the County’s insurance policy. She thinks initially, that fire suppression activity and related work is not covered. Once the work is completed, the County can submit a claim to ICRMP for review to see if any portion of the claim may be covered by the insurance.

A short recess was taken.

Regular session resumed.

Motion by Shaw, second by Wootan, to spend up to \$50,000.00 on fire suppression at the Bennett Road Landfill. The Board will review the situation at the next scheduled Board meeting on July 16, 2012 and make adjustments if necessary.

**SHAW..... -AYE**

**HOFER..... -AYE**

**WOOTAN..... -AYE**  
**so ordered.**

**Motion carried and**

The Board decided that if another emergency meeting is necessary, they will meet at the landfill and inform Clerk Steele of the meeting for the record.

Motion by Shaw, second by Hofer, to adjourn.

**SHAW..... -AYE**

**HOFER..... -AYE**

**WOOTAN..... -AYE**  
**so ordered.**

**Motion carried and**

**/S/ ARLEN O. SHAW, Chairman**

**ATTEST: /S/ BARBARA STEELE, Clerk**