

Commissioners Minutes

November 14, 2024 – 4:36 p.m. to 4:57 p.m.

MEETING TO CONSIDER REQUEST FOR RECONSIDERATION IN CASE NO. AD2023-0110-APL - THE HOAGLAND APPEAL OF THE DIRECTOR'S DECISION DENYING THEIR ADMINISTRATIVE DIVISION

Commissioners Brad Holton, Zach Brooks, and Leslie Van Beek

DSD Principal Planner Dan Lister

Interim DSD Director Jay Gibbons

DSD Planning Supervisor Carl Anderson

Deputy PA Zach Wesley

Deputy Clerk Monica Reeves



MEETING TO CONSIDER REQUEST FOR RECONSIDERATION IN CASE NO. AD2023-0110-APL - THE HOAGLAND APPEAL OF THE DIRECTOR'S DECISION DENYING THEIR ADMINISTRATIVE DIVISION

The Board met today at 4:36 p.m. to consider a request for reconsideration in Case No. AD2023-0110-APL, in the matter of the appeal by Cleon Hoagland of the DSD Director's decision which denied his application for an administrative division. Present were: Commissioners Brad Holton, Zach Brooks, and Leslie Van Beek, DSD Principal Planner Dan Lister, Interim DSD Director Jay Gibbons, DSD Planning Supervisor Carl Anderson, Deputy PA Zach Wesley, and Deputy Clerk Monica Reeves. Commissioner Holton requested the Board go into Executive Session which was held as follows:

EXECUTIVE SESSION – RECORDS EXEMPT FROM PUBLIC DISCLOSURE AND TO COMMUNICATE WITH LEGAL COUNSEL REGARDING PENDING/IMMINENTLY LIKELY LITIGATION

Commissioner Van Beek made a motion to go into Executive Session at 4:38 p.m. pursuant to Idaho Code, Section 74-206(1) (d) and (f) to discuss a personnel matter and to communicate with legal counsel regarding pending/imminently likely litigation. The motion was seconded by Commissioner Brooks. A roll call vote was taken on the motion with Commissioners Holton, Van Beek, and Brooks voting in favor of the motion to enter into Executive Session. The motion carried unanimously. Present were: Commissioners Brad Holton, Zach Brooks, and Leslie Van Beek, DSD Principal Planner Dan Lister, Interim DSD Director Jay Gibbons, DSD Planning Supervisor Carl Anderson, and Deputy PA Zach Wesley. The Executive Session concluded at 4:50 p.m.

While in open session, Deputy PA Wesley said the Board received a request for reconsideration from Samuel Parry on behalf of the Hoaglands who had filed for an application for an administrative land division and then subsequently filed an appeal of the Director's decision to the Board. The written findings originally indicated that it was subject to the LLUPA judicial review

provisions but Deputy PA Wesley believes that language was left in the findings in error and it is not technically appealable to the District Court for review because it's a Director's decision and the final authority is the Board. The question raised by Mr. Parry is one the Board has had the opportunity to review and go through the record on and in his opinion in reviewing Mr. Parry's concerns and the request, the main thrust of his argument is that the County in its written decision misapplied or didn't apply the right decision criteria. The criteria was correctly noted in the hearing and the Board discussed in making its decision that the same criteria and the factors around it and so Deputy PA Wesley proposes the Board consider issuing an amended decision that would put the correct criteria into the decision and then more succinctly go through the decision criteria and facts the Board relied on in coming to its decision. If those criteria change the Board's opinion on the application then it could potentially hold another hearing or approve the divisions. If the Board has gone through that criteria and come to the same conclusion then we could issue an amended written finding. He has prepared a draft for the latter to discuss today based on his review of the record. Commissioner Van Beek said the Board has been tasked with the request for reconsideration in response to some updated information pulled from the audio record. These are augmented supplemental findings to support the denial of the appeal and they did a good job pointing to areas where if the applicant so chooses to follow what's outlined in there by legal staff that does comply with Title 67 on what they could do to potentially gain approval. The Board has reviewed the draft findings and she is in support of them. She made motion to amend the written findings of facts that were initially presented on September 3, 2024 in Case No. AD2023-0010-APL and to incorporate into the decision the reasons that have been stated in the proposed augmented supplemental findings and to affirm the amended written findings of facts and conclusions of law in the case cited. Commissioner Holton concurred and said this review represents more correctly the Board's deliberation and conclusion. He seconded the motion. Commissioners Van Beek and Holton voted in favor of the motion. Commissioner Brooks was opposed to the motion. The motion carried by a two-to-one split vote. Deputy PA Wesley noted that in the draft document in provided he neglected to attribute the current Clerk to his position so a typographical correction will need to be made and a new draft will be provided. Commissioner Holton authorized staff to utilize his stamp on the corrected document. Upon the motion of Commissioner Brooks and the second by Commissioner Van Beek, the Board voted unanimously to adjourn at 4:57 p.m. An audio recording is on file in the Commissioners' Office.