

Commissioners Minutes

November 19, 2024 – 10:31 a.m. to 11:07 a.m.

**DSD GENERAL BUSINESS MEETING**

Commissioners Brad Holton and Leslie Van Beek

Interim DSD Director Jay Gibbons

DSD Planning Supervisor Carl Anderson

DSD Associate Planner Amber Lewter

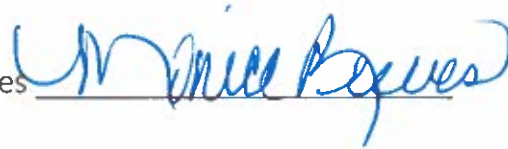
DSD Associate Planner Maddy Vander Veen

Constituent Services Director Aaron Williams

Phil Archer and Tayler Tibbitts from Fidelity National Title

COO Greg Rast

Deputy Clerk Monica Reeves



DSD GENERAL BUSINESS MEETING

The Board met today at 10:31 a.m. for a DSD general business meeting. Present were: Commissioners Brad Holton and Leslie Van Beek, Interim DSD Director Jay Gibbons, DSD Planning Supervisor Carl Anderson, DSD Associate Planner Amber Lewter, DSD Associate Planner Maddy Vander Veen, Constituent Services Director Aaron Williams, Phil Archer and Tayler Tibbitts from Fidelity National Title, COO Greg Rast, and Deputy Clerk Monica Reeves. Interim Director Gibbons said as there have questions as to what a title report provides through the process of evaluating an existing property as to original parcel and the potential for administrative splits, he invited Phil Archer to speak about what the process is and what it costs. Mr. Archer said anytime a report is ordered they do background research back to the last deed of record or the last time they insured, and they issue a provisional policy or commitment of policy that shows all the exceptions that would pertain to that parcel including the legal description and current vested owner. They do not go back to a certain date; they go back to the date of the last original deed so if that deed was not prior to 1979 you would have to ask for an original deed prior to 1979 which is an additional service they can provide. And then the County can compare the legal description from the original parcel in 1979 of the deed that was last associated there to the new/current deed of record and determine whether they are the same and if they were, then it meets the standards. If it doesn't then there is far more research involved that they could assist in providing the documentation to but they cannot interpret or specify what has changed. They can read a legal description to determine what occurred that made it different but they cannot tell why - they can't tell whether it's a split, adjustment, etc. Any title company can provide a list of all the deeds of record that would

show the history of that parcel but beyond that the exceptions do not provide any validity that would say this meets your description under statute unless the statute was amended for some purpose. Interim Director Gibbons said the title report provides the research that DSD utilizes to evaluate against the code, and the title companies can provide information in short order. If we move to have a property owner apply for a request that they will provide this information on, be it a title report or whatever the property information is that's great, but if we do something without a title report that's a burden on the Assessor's Office and Recorder's Office because it may involve searching microfiche records and other sources. This is a more expedient and cost effective way to get the research. Planning Supervisor Carl Anderson said there are two different types of applications: with a zoning inquiry and entitle research component, the intent is to remove the research from staff's due diligence and put that back on the applicant submitting the entitle research application so DSD will request a lot book report be submitted with the application to provide the last deed of record and include the last deed prior to 1979. They will need the vested owner, the current legal description, the legal description prior to our date of record (9/6/1979) and if those two things are different we'll need that change of deeds between those two dates to identify the discrepancies. The lot book with that information would come to staff and they could provide the analysis with the tools and research provided so they could interpret code and if they need to they would engage the County surveyor to provide the mapping service of any additional interpretation needed. The intent is to remove staff's portion of the time on the research end, but they would still have the staff time on the interpretation, but it's anticipated it would greatly reduce time staff involvement. A citizen would come to DSD providing the research and staff will provide the service of interpreting the ordinance and telling them the best path forward. It would be optional. We could require this on the applications in tandem so if someone opts not to DSD would still need to evaluate it and that would be part of the review. The reason DSD is recommending it still be a service they provide is if they remove it, it may increase the number of hearing cases, administrative cases, and applications that someone may not be eligible for, and we could save a lot of time on the frontend. Interim Director Gibbons said every application is different and they are trying to find the most efficient way to provide a service to the community and the property owner and get them where they need to be as best they can. The Board had follow-up questions. Planning Supervisor Anderson said under the current process they could submit a parcel inquiry and apply whether they agree with the parcel inquiry or not, but they would still provide the service if somebody opts in and wants to utilize the service of finding out what the best path forward for them is - with them providing the research component, but staff would still need that information for applications as they are evaluating something for an administrative division.

### **Projected cost for a title report:**

Mr. Archer said a typical lot book report is \$150, but there could be additional deed research depending on what was required. All title companies have digitized the county records, and they can provide the details needed for the application process. They provide similar services to prospective developers and builders throughout the state. Commissioner Holton said the research time should be borne by the applicant not by taxpayers. There was discussion regarding title companies' efforts to digitize county information and the accessibility of that repository of information. Mr. Archer said they have the microfiche from all of the records back to patent when Idaho became a state. Every county is digitizing their records usually through the title companies e-recording database and they are doing that as a service for all the counties they serve, and that information is shared by agreements they have with different title companies. The ease with which they have created a method to extract that data is the part that makes them unique between companies; the other piece is they have an underwriting component. They issue the commitment/information and the escrow company that does the closing component, and they are also the underwriter.

Follow-up discussion ensued including on the topics of the proposed fee schedule notification process, and definition of an original parcel. Interim Director Gibbons said our definition includes an *and* it refers to platted lots and parcel land and we need to change the semantics of the definition to clear up the ambiguity. Commissioner Holton does not want to change the date, he wants to look at changing the clarity of the definition or the wording of original parcel. Commissioner Van Beek agrees. Commissioner Holton said he is appalled by what staff had to do and how we end up being quasi-legal counsel to applicants; he doesn't see a clear path in how to pull the County out of exposure and still provide customer service and while it is straightforward on some properties, that isn't always the case with all properties. Commissioner Van Beek wants to remove the ambiguity and get professionals involved so we don't have interpretations based on a director; you have someone outside looking at that and setting a standard that's more than just one person might want. We need to clear up the ordinances so there isn't ambiguity in interpretation of different sections of the ordinance. Mr. Archer said former Director Minshall reached out and asked him to provide a commitment or title policy that would meet the standard of original parcel, or a parcel. They do not have the ability to interpret legal statute and determine whether property meets or does not meet that statute, all they can do is provide information and that's what they would do, and he hopes no one would be told otherwise. They provide the data to them and the County can make the interpretation on the law. The title company should not be issuing any statute - all they

can do is tell people here is what you own. They provide the research data, the rest falls for the County. Commissioner Holton said if we were tracking every hour, the title company can do it far more efficiently than the County can and if there is complexity on a piece of property the cost will go up. It is more cost efficient to go in this direction. As part of next week's DSD meeting, there will be a review of the draft fee schedule and staff will be ready to discuss original parcel definition updates. The meeting concluded at 11:07 a.m. An audio recording is on file in the Commissioners' Office.