

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

<p>ALFRED ARN and JENNIFER ARN, husband and wife, <i>Petitioners,</i></p> <p>v.</p> <p>BONNER COUNTY, IDAHO, a political subdivision of the State of Idaho, acting through the BONNER COUNTY BOARD OF COUNTY COMMISSIONERS, <i>Respondent,</i></p> <p>and M3 ID CAMP BAY, LLC, an Arizona limited liability company, <i>Intervenor.</i></p>	<p>Case No. CV-09-21-0709</p> <p>MEMORANDUM DECISION AND ORDER ON PETITION FOR REVIEW</p>
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Petition for Judicial Review of a resolution of the Bonner County Board of Commissioners.

The decision of the Bonner County Board of Commissioner is vacated and remanded for further proceedings.

Preston Carter, Givens Pursley, LLP, for Petitioners Alfred Arn and Jennifer Arn.

William S. Wilson, Deputy Prosecuting Attorney, for Respondent Bonner County.

Douglas S. Marfice, Ramsden, Marfice, Ealy & De Smet, LLP, for Intervenor M3 ID Camp Bay, LLC.

This is a judicial review of a decision of the Bonner County Board of County Commissioners (the Board). Green Enterprises, Inc. (Applicant) filed a petition to vacate a segment of Camp Bay Road, a public road that provides access to Lake Pend Oreille. After the Board heard testimony from the community to determine whether or not abandoning that portion of Camp Bay Road was in the public interest, the Board approved a resolution to vacate. The Arns filed a Petition for Judicial Review Board' resolution granting the vacation, contending that the Board's decision failed to comply with Idaho Code § 40-203. For the reasons set forth herein, the decision of the Board is vacated and remanded for further proceedings.

I. FACTUAL AND PROCEDURAL BACKGROUND

Camp Bay Road is a gravel road in Bonner County that extends from Sagle Road to its termination at the high-water mark of Lake Pend Oreille in Camp Bay.¹ Camp Bay Road is maintained by and is under the authority of the Board of County Commissioners for Bonner County.² The Green Family has owned the parcel of land encompassing the underlying easement for nearly 120 years.³

On February 2, 2021, J-U-B Engineers, Inc. filed a petition to vacate a segment of Camp Bay Road on behalf of Green Enterprises, Inc. and M3 ID Camp Bay, LLC.⁴ In exchange for that vacation, Green would build a privately owned, paved road to service its own property and several properties located to the south⁵ and construct a gated entrance and a new turn-around area for school buses and plow trucks.⁶ A public hearing on the matter was set for April 7, 2021.⁷ The two maps below show the location of Camp Bay Road in its present configuration and its proposed relocation.

¹ Agency Record on Judicial Review ("R.") at 4.

² R. at 4; Bonner County Board of Commissioners Public Hearing Transcript (4/7/2020) ("Tr. (4/7/2020)") p.7.

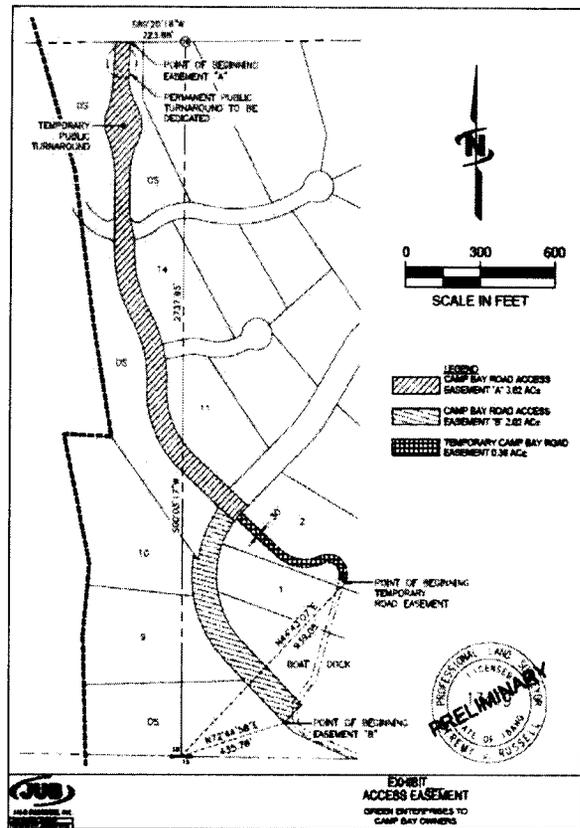
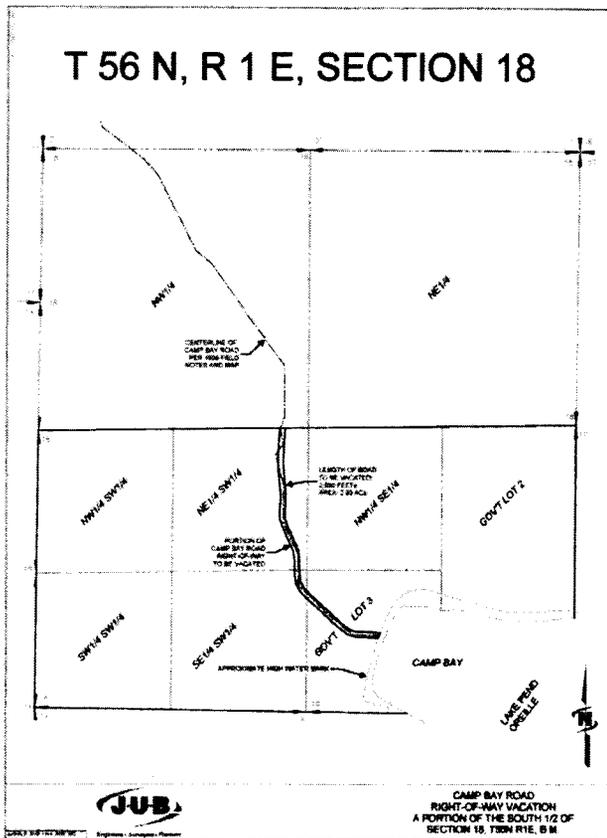
³ R. at 83.

⁴ R. at 2-3.

⁵ R. at 3, 11.

⁶ R at 5.

⁷ A public hearing on the petition was originally set for March 24, 2021, but later rescheduled to April 7, 2021. R. at 23.



Camp Bay Road Right-Of-Way Vacation.⁸

Depiction of Road Relocation.⁹

On February 12, 2021, the Director of the Bonner County Planning Department sent a letter to seven agencies and organizations seeking input on the petition including the Bonner County Road and Bridge Department, the Selkirk Fire District, Northern Lights, Inc., the U.S. Navy, the Lake Pend Oreille School District, the Idaho Department of Lands-Sandpoint, and the U.S. Forest Service.¹⁰ Steven Klatt, a member of the Applicant’s board of directors, is also the Director of the Bonner County Road and Bridge Department.¹¹ The letter stated “If no response is provided, staff will conclude [the] agency [had] no objections to the project or recommended

⁸ R. at 25.

⁹ R. at 11.

¹⁰ R. at 20-22.

¹¹ In a letter to the Board, a member of the public stated “Reduction in cost of road maintenance is concerning since Steve Klatt is, to the best of my knowledge, both the Secretary and Vice President of Green Enterprises as well as the Director of the Bonner County Road and Bridge Department. This is a conflict of interest. Providing a reduction in county spending is a plus for Mr. Klatt in his position with the county. Mr. Klatt has a fiduciary obligation to me to not squander corporate assets.” R. at 72.

conditions.”¹² No comments were received from these agencies, including the Bonner County Road and Bridge Department. ¹³

On April 7, 2021, the Planning Department prepared a staff report for the Board’s consideration at the hearing.¹⁴ The staff report provided a summary of the project, applicable laws, background, attestation of public notice and comments, staff analysis, suggested proposed conditions of approval, ¹⁵ and concluded that the project was consistent with Idaho Code based on the following factors:

Staff analysis:

Staff concluded this project is consistent with Idaho Code, based upon the following:

1. The proposed vacation will take the roadway out of the County maintenance system and it will become privately maintained.
2. There is no public access to the Lake as the road ends at the high-water mark. ¹⁶
3. Proposed road improvements include moving the road away from the Lake, thereby further increasing setback scenarios for structures and septic systems to the overall benefit of the public.
4. Proposed improvements include addressing turnarounds at the “gate” for a school bus or snowplow.
5. Proposed easements replacing the right-of-way will continue to provide access to property owners beyond the subject parcel.
6. Future maintenance of the road will continue at the petitioner’s expense. To determine if a project such as this is in the public interest, there must be a balance of current costs versus continued maintenance costs on a road that serves a small number of residents. The benefit to the County taxpayers is the maintenance of this road will continue privately by the petitioner and local residents.

R. at 58.

The staff report also included the following proposed conclusions of law:

¹² R at 20.

¹³ R. at. 57, 60.

¹⁴ R. at 55-60.

¹⁵ R. at 55-60.

¹⁶ The court notes that this conclusion is erroneous. See Idaho Code § 58-1201; *In re Sanders Beach*, 143 Idaho 443, 453 (2006) (noting that, under the public trust doctrine, “the state holds the title to the beds of navigable lakes and streams below the natural high-water mark for the use and benefit of the whole people,” and that the doctrine “preserves the public’s right of use in such land”).

Conclusions of Law:

The Background section of the staff report above is the basis for all of the following findings of fact and conclusions of law. Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

This proposal was reviewed for compliance with the vacation criteria and standards set forth at Idaho Code, Title 40, Chapter 2, Highways and Bridges, General Provisions.

Finding

Vacating the approximately 2,550 ft. of Camp Bay Road will not block access to surrounding parcels, provided the associated proposed easements and proposed boundary line adjustments are completed.

Conclusion 2

The abandonment of the public right of way is in the public interest.

Finding

The proposed vacation will provide for continued access to properties beyond the subject property and proposals to move the private easement away from the Lake will provide additional protection to the Lake. Further, the vacation will remove this portion of road from the County maintenance system. There were no comments received from any public agency with concerns regarding this proposal.

Conclusion 3

By granting this petition for vacation of public right of way, real property adjoining the subject highway or public right of way will not be left without access to an established highway or public right of way.

Finding

All parcels beyond the subject parcel will continue to have access, provided the associated proposed easements and boundary line adjustment are completed. [sic]

R. at 59-60.

On April 7, 2021, the Board held a public hearing to consider the petition.¹⁷ At the hearing to consider the petition, the Board heard testimony and received written comments, both

¹⁷ Tr. (4/7/2020) p. 4.

for and against the proposal.¹⁸ Director Ollerton, the County's Planning Director, gave a presentation, supported by several PowerPoint slides, in support of the Staff Report.¹⁹ Ollerton argued that the project would reduce road maintenance costs for the County, improve access to the South Camp Bay Properties, increase property tax revenue, and provide a gated entrance for residents which would increase security and reduce trespassing.²⁰ The Judicial Record reflects public comment both in favor and against the vacation. However, the Board contends that no "neighbors" objected.²¹

At one point, a member of the public raised concerns regarding Steve Klatt's conflict of interest, but was cut off by a commissioner, stating that his time was up and that if the individual was "going to ramble on about things that aren't relevant," he would be cut off.²²

Following the period of public comment, Chairman McDonald voiced support for the proposal, stating:

As far as cost of maintenance, you probably don't understand how much it costs to maintain these gravel roads. We're actually dealing with a lot of issues because of that. And to a degree this is a win for the taxpayers of Bonner County because this will be one less gravel road that we've got to deal with. They are costing us an exorbitant amount of money. . . ."

Tr. (4/7/2020) p. 56, ll. 15-21. Commissioner Connolly stated that he considered the opposition as nothing more than "a smoke screen to try to keep these folks from being able to have the right to develop their property."²³ Commissioner Bradshaw went last, stating:

And I see it as a plus for everybody involved. It saves the county road money. It gives a better access for the people that live there, and it allows you to develop a good property like the developer certainly is going through all of the proper steps, and I don't -- and like I said, I struggled with it at first because we're giving away

¹⁸ See generally R. at 321-326; see, gen., Tr. (4/7/2020) p. 1-69.

¹⁹ R. at 276-89; Tr. (4/7/2020) p. 5-10.

²⁰ R. at 316-17.

²¹ The Board defined neighbors as "any of the aforementioned 'property owners within 300 feet of the subject parcel.'" Intevnor's Brief at 5.

²² Tr. (4/7/2020) p. 33, ll. 24-25; p. 34, ll. 1-6.

²³ Tr. (4/7/2020) p. 5, ll. 3-5.

three acres. How do you make that sound good, you know, until you look at all of the details involved? And then once you look at it, it makes sense...And at the end of the day when it's all done, I think the people at both ends of that road are going to go, "This worked. This was a good thing." And I don't know of anybody in Bonner County that doesn't want a paved road.

Tr. (4/7/2020) p. 59, ll. 14-25.

With the apparent agreement amongst the Board, Commissioner Connolly read from the Staff Report to make the following motion:

Mr. Chairman, I move to approve this petition, File VS0002-21, a petition to vacate a 2,550-foot portion of Camp Bay Road as shown on the submitted site plan, finding that it is in accord with Idaho Code 40-203 as enumerated in the foregoing conclusions of law, and based on the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. I further move to adopt the following findings of fact, conclusions of law, and conditions of approval. The action that could be taken to obtain the vacation is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property.

Tr. (4/7/2020) p. 60, ll. 7-19. The motion was approved unanimously.²⁴ At the conclusion of the hearing, the Commissioners signed Resolution #2021-37 ("April 7 Resolution"). The April 7

Resolution stated in pertinent part:

WHEREAS, following the duly noticed public hearing, the Bonner County Board of Commissioners did adopt findings of fact and conclusions of law in support of the abandonment . . . concluding that:

- 1.) This proposal is compliant with the vacation criteria and standards set for at Idaho Code §40-203. [sic]
 - a. Finding: The vacation is for that portion of right of way at the end of Camp Bay Road, located within the South 1/2 of Section 18, Township 56 North, Range 1 East, Boise Meridian, Bonner County, Idaho.
- 2.) The abandonment of the easement is in the public interest.
 - a. Finding: No public agency or neighbors have objected to the proposed vacation.
- 3.) By granting this petition for vacation that portion of right of way at the end of Camp Bay Road, located within the South 1/2 of Section 18, Township 56 North, Range 1 East, Boise Meridian,

²⁴ Tr. (4/7/2020) p. 60, ll. 23-25.

Bonner County, Idaho is beneficial to applicant, the public and the County. [sic]

a. Finding: Granting the vacation allows for less County maintenance, a gated road complete with turnarounds for school bus and snowplow, improved access to the South Camp Bay Properties and private streets.

R. at 337.

Two days after the hearing, Milton Ollerton, the County's Planning Director, sent the Applicant a letter ("April 9 Letter").²⁵ The April 9 Letter stated conditions of approval and conclusions of law as prefaced with the following: "[t]he Background section of the staff report above is the basis for all of the following findings of fact and conclusions of law. Based upon the findings of fact, the following conclusions of law are adopted [.]"²⁶ This letter was not signed by any of the Commissioners.²⁷

On May 4, 2021, Petitioners filed a petition seeking judicial review of the Board's decision to vacate the road to this court.

II. STANDARD OF REVIEW

A Board of County Commissioners "is treated as an agency for the purposes of judicial review." *Galli v. Idaho Cnty.*, 146 Idaho 155, 158 (2008) (applying concepts of administrative law to decision by Board of County Commissioners under Idaho Code § 40-208).

The reviewing court must vacate and remand for further agency action if "the agency's findings, inferences, conclusions, or decisions are (a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) not supported by substantial evidence on the record as a whole; or (e) arbitrary, capricious, or an abuse of discretion." I.C. § 67-5279(3). *Jasso v. Camas Cty.*, 151 Idaho 790, 793, 264 P.3d 897, 900 (2011).

²⁵ R. at 332-335.

²⁶ R at 334.

²⁷ R at 335.

The burden is on the party challenging the agency decision to demonstrate that the agency erred in a manner specified under Idaho Code § 67-5279(3) and “that a substantial right of that party has been prejudiced.” *Bennett v. State, Dep't of Transp.*, 147 Idaho 141, 142-43, 206 P.3d 505, 506-07 (Ct. App. 2009) (citing *Price v. Payette County Bd. of County Comm'rs*, 131 Idaho 426, 429, 958 P.2d 583, 586 (1998); *Marshall v. Idaho Dep't of Transp.*, 137 Idaho 337, 340, 48 P.3d 666, 669 (Ct. App. 2002)).

“Erroneous conclusions of law made by an agency may be corrected on appeal.” *Homestead Farms*, 141 Idaho at 859, 119 P.3d at 634. However, the reviewing court does not substitute its judgment for that of the agency as to the weight of the evidence presented. Idaho Code § 67-5279(1); *Marshall*, 137 Idaho at 340, 48 P.3d at 669. The court must defer to the agency's findings of fact unless they are clearly erroneous. *Castaneda v. Brighton Corp.*, 130 Idaho 923, 926, 950 P.2d 1262, 1265 (1998). Thus, the agency's factual determinations are binding on the reviewing court, even where there is conflicting evidence before the agency, so long as the determinations are supported by substantial and competent evidence in the record.

III. DISCUSSION

On appeal, Petitioner contends that the Board's April 7 Resolution to vacate the road should be overturned because the Board failed to issue an adequately written decision and failed to comply with the requirements of Idaho Code §§ 40-203 and 40-208. Petitioners further contend that the Board failed to accept all related information in evidence by failing to acknowledge Steven Klatt's potential conflict of interest.

Respondent contend that the April 9 letter between Director Ollerton and the Applicant Green constitutes the written findings of fact and conclusions of law adopted by the Board and that the April 7 Resolution was a mere “recital” and “precursor”²⁸ to the Board's decision.

²⁸ Respondent's brief at 13.

For the reason stated within this decision, the Board's decision to vacate the road is vacated and remanded for further proceedings.

A. The April 7 Resolution is the written decision of the Board.

The procedure to consider an application for the abandonment of a road or right-of-way is set forth in Idaho Code § 40-203. Idaho Code § 40-203 provides in pertinent part:

(a) The commissioners may by resolution declare their intention to abandon and vacate any highway or public right-of-way or to reclassify a public highway as a public right-of-way, *where doing so is in the public interest.*

...

(g) At the hearing, the commissioners shall accept all information relating to the proceedings. Any person, including the state of Idaho or any of its subdivisions, or any agency of the federal government, may appear and give testimony for or against abandonment.

...

h) After completion of the proceedings and consideration of all related information, the *commissioners shall decide whether the abandonment and vacation of the highway or public right-of-way is in the public interest* of the highway jurisdiction affected by the abandonment or vacation. The decision whether or not to abandon and vacate the highway or public right-of-way *shall be written and shall be supported by findings of fact and conclusions of law.*

...

(j) The commissioners shall cause any order or resolution *to be recorded in the county records* and the official map of the highway system to be amended as affected by the abandonment and vacation.

Idaho Code Ann. § 40-203 (emphasis added).

Here, the parties do not agree which document, or documents, constitutes the Board's written decision. In its brief, the Board states that:

Desperate to overcome the obvious, the Arns now argue that because Resolution 21-37 contains a short reference to the public interest, it must have been intended as the BOCC's written findings of fact and conclusions of law. The resolution does state that no objection to the petition was received at the time it was written. However, that statement is only a recital. It is a precursor to the language of the resolution itself and has no operative legal impact.

Respondent's Brief at 13. Instead, the Board asserts that the April 9 letter constitutes the written findings of facts and conclusions of law. The court disagrees.

Under Idaho Code § 40-203, the Board had a duty to produce a written resolution on the decision to vacate and a duty to record that resolution in the county records. However, the April 9 letter was not recorded in the official County records. Instead, it was a private communication between the applicant for the road vacation and the Planning Director. Further, nothing in the record indicates that the letter was authorized by the Board, the letter was not signed by any member of the Board, and the April 9 letter was not distributed to interested parties or the public. Despite this practice being "[the] standard procedure in Bonner County and is used for every land use application which requires such findings and conclusions,"²⁹ the court concludes that this procedure is deficient.

In contrast, the April 7 Resolution was recorded in the county record and was signed by the members of the Board. Therefore, the court concludes that this resolution represents the written decision of the Board.

B. The Board's reasoning to support the finding that it was in the public interest to vacate the Road may be gleaned from the record and is arbitrary.

An adequate written decision is required for meaningful judicial review, which is itself a component of due process. *Jasso v. Camas County*, 151 Idaho 790, 796 (2011) ("Due process . . . requires that parties be afforded a meaningful opportunity for judicial review." (citing *Graves v. Cogswell*, 97 Idaho 716, 717 (1976))); The Idaho Supreme Court has explained:

What is needed for adequate judicial review is a clear statement of what, specifically, the decisionmaking body believes, after hearing and considering all the evidence, to be the relevant and important facts upon which its decision is based. Conclusions are not sufficient.

²⁹ Respondent's Reply Brief at 10.

Workman Family P'ship. v. City of Twin Falls, 104 Idaho 32, 37 (1982). More recently, the Court in *Jasso* stated:

The requirement of meaningful administrative findings serves important functions, including 'facilitating judicial review, avoiding judicial usurpation of administrative functions, assuring more careful administrative consideration, helping parties plan their cases for rehearing and judicial review and keeping within their jurisdiction.

Jasso, 151 Idaho at 794 (quoting *Idaho Underground Water Users Ass'n v. Idaho Power Co.*, 89 Idaho 147, 156 (1965)). Further, "[i]t is not the role of the reviewing court to scour the record for evidence which may support the decision-maker's implied findings and legal conclusions." *Jasso*, 151 Idaho at 795 (footnote omitted). Rather, "the role of the reviewing court is to evaluate the process by which the decision was reached, considering whether substantial evidence supported the factual findings, and evaluate the soundness of the legal reasoning advanced in support of the decision." *Id.* at 796.

Here, the April 7 Resolution, standing alone, appears arbitrary, conclusive, and provides negligible insight into the Board's reasoning. Generally, a written decision with these deficiencies would be vacated. See *Workman*, 104 Idaho at 37. However, the court is compelled under Idaho Code § 40-208(6) to review the record to determine whether the decision was an appropriate exercise of discretion and whether the decision was supported by substantial and competent evidence.

The public-interest finding is a discretionary determination rather than a factual finding. *Palmer v. E. Side Highway Dist.*, 167 Idaho 813, 821, 477 P.3d 248, 256 (2020). When a court reviews the decision of a board to vacate a road, Idaho Code § 40-208(6) states: "[t]he court shall consider the record before the board of county or highway district commissioners and shall defer to the board of county or highway district commissioners on matters in which such board has appropriately exercised its discretion with respect to the evaluation of the public interest." See

Palmer, 167 Idaho at 818 (stating “the Highway District’s reasoning is obvious from the record, which supports the determination that its decision was made by an exercise of reason. The Highway District’s deliberations were contained in the transcript and are part of the administrative record. Although it is not a lengthy discussion, the commissioners’ reasoning may be gleaned from the transcript”). In addition, a board’s determinations of the public interest must be supported by “reasoning . . . sufficient to review for an abuse of discretion under [Idaho Supreme] Court’s jurisprudence.” *Id.* at 820-21.

To determine if an underlying decision was an abuse of discretion, the Court must analyze whether the Board: (1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason. *Palmer v. East Side Hwy. Dist.*, 167 Idaho 813, 818 (2020).

Here, the Board’s deliberations on the public-interest finding were contained in the transcript and are part of the administrative record. The April 7 Resolution states: “the Bonner County Board of Commissioners did adopt findings of fact and conclusions of law in support of the abandonment . . . The abandonment of the easement is in the public interest. Finding: No public agency or neighbors have objected to the proposed vacation.” At the conclusion of that hearing, the Board unanimously approved a motion to accept “findings of facts and conclusions of law as enumerated in the foregoing conclusions of law, and based on the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing.”³⁰ In regard to the public interest, the findings of facts included in the Staff Report state that: (i) the proposed vacation will provide for continued access to properties beyond the subject property and proposals to move the private easement away from the Lake will provide additional protection to the Lake, (ii) the vacation will remove this portion of road from the County maintenance system,

³⁰ Tr. (4/7/2020) p. 60, ll. 7-19.

and (iii) there were no comments received from any public agency with concerns regarding this proposal.

Based upon the record, and deferring to the agency's findings of fact, the court determines that the Board's reasoning may be gleaned from the record. However, the court also finds its reasoning to be arbitrary.

Idaho Code § 40-203(h) provides:

After completion of the proceedings and consideration of all related information, the commissioners shall decide whether the abandonment and vacation of the highway or public right-of-way is in the public interest of the highway jurisdiction affected by the abandonment or vacation.

(Emphasis added). Here, the Board asked Mr. Klatt's department to comment on the application to vacate the road; and the Board based its decision in part on the fact that Mr. Klatt's department did not object to the application. Mr. Klatt owed the Board a duty to provide unbiased service as the Director of the County's Road and Bridge Department. *Cluff v. Bonner Cnty.*, 126 Idaho 950, 952 (1995) ("public employees are trustees with a fiduciary duty to the people"). Likewise, Mr. Klatt owed the Applicant a fiduciary duty by virtue of his role on the developer's board of directors. See *McCann v. McCann*, 152 Idaho 809, 815, 275 P.3d 824, 830 (2012), see also *Smith v. Great Basin Grain Co.*, 98 Idaho 266, 278 (1977). This is a conflict of interest potentially, if not actually. This conflict of interest was identified to the Board through writing³¹ and during the public hearing, before the testifying member of the public was cut off.³²

Further, this factor appeared to play a significant role in the Board's decision, as the April 7 Resolution identified only a single finding of fact in writing to support the conclusion that

³¹ R. at 72.

³² Member: [T]here's is a big conflict of interest with Steve [K]latt , who has been –
Commissioner: And again, [member] you're your time is up. Get him off. Hey, listen, I'm a very gracious chairman, and I will be happy to give you a little bit of extra time. But if you're going to ramble on about things that aren't relevant, we will cut you off.

Tr. (4/7/2020) p. 33, ll. 24-25; p. 34, ll. 1-6.

vacating the road was in the public interest: “No public agency or neighbors have objected to the proposed vacation.” This was likewise repeated in the Staff report.

Because the Board failed to provide *any* justification for failing to address the conflict of interest issue, and because the Board’s April 7 Resolution *barely* passes muster as an adequate written decision for purposes of judicial review, this court cannot determine that the Board’s decision was consistent with legal standards and was reached by the exercise of reason. Accordingly, the Board’s decision to find that it was in the public interest to vacate the road because “no public agency or neighbors have objected to the proposed vacation” appears arbitrary in light of the conflicted director. Further, this information was relevant under Idaho Code § 40-203(h) and it was an abuse of discretion to suppress this information from consideration.

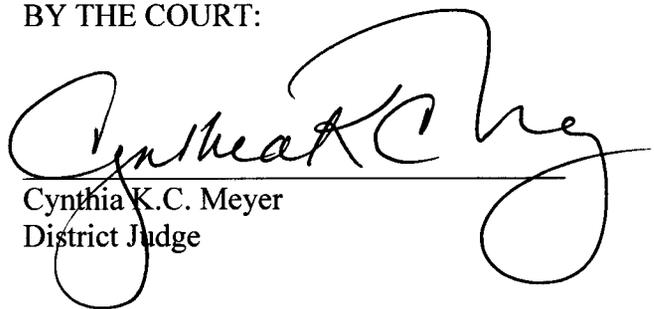
Therefore the court vacates the Board’s decision and remands this issue to the Board for further proceedings. The court would also invite the Board to take this opportunity to issue a more developed written decision for the county record.

IV. CONCLUSION

The Board’s decision is vacated and remanded to the Board for further proceedings consistent with this decision. Costs are not awarded to either party.

DATED this 15th day of November, 2021.

BY THE COURT:



Cynthia K.C. Meyer
District Judge

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered on the date and in the manner indicated to the following:

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JIM BRANNON
CLERK OF THE COURT

By: 
Deputy Clerk