

March 14, 2022

The Board of County Commissioners of Washington County, Idaho, does hereby meet this 14th day of March 2022.

IN THE MATTER OF ROLL CALL)

Donna Atwood, Clerk, called roll call: Kirk Chandler, present; Lyndon Haines, present; and Nate Marvin, present. Also present was Gordon Wilkerson.

Nate Marvin opened the meeting and Kirk Chandler led the Pledge of Allegiance. Nate Marvin gave the invocation.

IN THE MATTER OF CORRESPONDENCE/MEETINGS AND REPORTS)

Correspondence received by the Board was reviewed and disseminated as required.

Lyndon Haines reported he attended the Rodent Control, Weed Control and Behavior Health Board meetings last week.

Nate Marvin reported the applicant for the Extension Educator position withdrew their application. Marvin stated Senate Bill 1359 passed which will provide funding to Roads & Bridges.

Kirk Chandler moved, seconded by Lyndon Haines to approve the Sales Agreement between the Washington County Clerk's Office and Allied Business Solutions for a copier for the Clerk's Office. Motion carried unanimous.

Lyndon Haines moved, seconded by Kirk Chandler to approve the Cooperative Forest Road Agreement between Washington County and the USDA, Forest Service, Payette National Forests. Motion carried unanimous.

Robert Peterson discussed expenses to be paid for server upgrades. Peterson requested permission to expend ARPA (American Rescue Plan Act) funds to cover the cost. The Board approved the expenditure of ARPA funds.

Peterson requested permission to travel to Omaha, Nebraska to visit the E S & S (Election Systems and Software) facility in April. Peterson also requested permission to attend the NACO (National Association of Counties) conference in July. The Board approved both requests.

IN THE MATTER OF MINUTES)

The minutes of the Board not heretofore approved of March 7, 2022 were approved as written. A full audio recording of the Commissioner Meeting is available at the Clerk's Office upon request.

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IN THE MATTER OF CLAIMS)

The claims, audited by the Auditor, were presented and reviewed by the Board. All credit card claims were reviewed.

The Auditor was authorized to issue warrants totaling \$7,611.04 for election worker expenses by a motion of Lyndon Haines, seconded by Kirk Chandler. Motion carried.

The Auditor was authorized to issue warrants totaling \$438,224.40 for general expenses by a motion of Lyndon Haines, seconded by Kirk Chandler. Motion carried.

IN THE MATTER OF CANVASS OF VOTES)

Michelle Hagans, Deputy Elections Clerk, and Kellie Loos, Deputy Clerk, met with the Board. The Board reviewed the results for the March 8, 2022 election.

Lyndon Haines moved, seconded by Kirk Chandler to approve the Canvass of Votes for the March 8, 2022 Election as presented. Motion carried unanimous.

IN THE MATTER OF EMERGENCY MANAGEMENT)

Tony Buthman, Emergency Manager, met with the Board. Buthman discussed the LEPC (Local Emergency Planning Committee) meeting that was held last month where Cascadia Rising was discussed. Buthman stated another meeting would be held next week. Buthman informed the Board he worked with the Information Technology Director, Robert Peterson, to gather data on broadband coverage in the county.

Buthman discussed current COVID cases and reported the case count is on the decline.

Buthman informed the Board the Emergency Management Office does not have a GPS unit at this time. Buthman suggested one be purchased in the future.

Buthman reported the current snow pack is 80%. Buthman informed the Board he has been invited to instruct classes at the Bee Tree Folk School regarding preparedness.

IN THE MATTER OF PROSECUTING ATTORNEY)

Delton Walker, Prosecuting Attorney, met with the Board. Also present was Planning and Zoning Administrator, Bonnie Brent. Walker informed the Board that Will Herrington has assisted with language for the Planning and Zoning Office ordinances.

Marvin inquired on the status of the Lance Hoch issue regarding landing or taking off in a private plane. Brent stated that in the past, persons have requested a Special Use Permit

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to allow the use. Walker stated he had met with the attorney representing Hoch and had suggested the flight pattern be changed. Brent stated a Special Use Permit is required to take off or land an aircraft.

Marvin inquired of the status at Intrinsic Organics. Walker stated there are still issues at the facility.

Nate Marvin moved, seconded by Lyndon Haines to go into executive session at 10:14 a.m. in accordance with I.C. 74-206(1)(a & b) to consider hiring a public officer, employee, staff member or individual agent. This paragraph does not apply to filling a vacancy in an elective office, (b) to consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student. (f) to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement. Motion carried unanimous. Kirk Chandler, Aye; Lyndon Haines, Aye; Nate Marvin, Aye.

Nate Marvin stated they were out of executive session at 10:45 a.m.

IN THE MATTER OF PLANNING AND ZONING)

Bonnie Brent, Planning and Zoning Administrator, met with the Board. Also present was Building Inspector, Steve Pierson.

Pierson addressed the Board and stated he is receiving requests for an accessory dwelling unit. The requests are coming from people who already have a home and want an additional unit of some sort. Pierson stated he was informed that this had been allowed in the past if the two units were connected by a breezeway or if both units were under one roofline. Pierson stated he had researched the issue and stated that code does define single-family and multi-family dwellings, but is very ambiguous in regards to an accessory dwelling. Pierson requested guidance from the Board. Pierson stated he has received a request for two units that would be separated by a garage or breezeway. That is essentially a duplex. Pierson inquired if it is to be allowed to have two separate units under one roof.

Haines stated that would be two separate homes.

Chandler stated that would be contradictory to County Code. The person making the request should apply for a Special Use.

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Haines stated it sounds like they are requesting a multi-family dwelling. Haines read definitions from the current County Code on the record.

Brent stated she would email a draft of the proposed code violation fees to the Board for review. Brent stated that staff is in the process of reviewing the code where violations are imposed.

IN THE MATTER OF AMBULANCE)

Nate Marvin moved, seconded by Kirk Chandler to recess as the Board of Washington County Commissioners and convene as the Board of the Weiser Ambulance District. Motion carried unanimous.

Donna Atwood, Clerk, called roll call: Kirk Chandler, present; Lyndon Haines, present; and Nate Marvin, present.

Luke Smith, Ambulance District Director, met with the Board. Order No. 22-24 for general expenses in the amount of \$2,772.09 and Order No. 22-0012 for payroll expenses in the amount of \$24,415.96 was presented to the Board for review.

Smith stated he is still looking into the purchase of a command vehicle. Smith discussed the purchase and delivery of the new ambulance with an expected delivery date pushed back to August. Smith reported the District has received some grant funding that will be used to purchase equipment and supplies. Smith reported the Ambulance District had thirty calls for service last week, which included ten transfers and seven public assists /refusals for care.

Smith reported that Les Schwab quoted new tires for the ambulance in the amount of \$1,900.00. Commercial Tire submitted a quote for approximately \$1,000.00 under the State Contract. Smith reported one ambulance is out-of-service at this time due to issues with a cot.

Kirk Chandler moved, seconded by Lyndon Haines to approve Order No. 22-24 for general expenses in the amount of \$2,772.09. Motion carried unanimous.

Lyndon Haines moved, seconded by Kirk Chandler to approve Order No. 22-0012 for payroll expenses in the amount of \$24,415.96. Motion carried unanimous.

There was discussion of the call process. Smith informed the Board he is in discussion with Alan Dornfest with the State Tax Commission regarding the Ambulance Districts in the County.

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Nate Marvin moved, seconded by Lyndon Haines to recess as the Board of the Weiser Ambulance District and reconvene as Board of Washington County Commissioners. Motion carried unanimous.

Donna Atwood, Clerk, called roll call: Kirk Chandler, present; Lyndon Haines, present; and Nate Marvin, present.

IN THE MATTER OF SHOWORKS DISCUSSION)

The Board discussed a request from the Fair Board for the Extension to help pay for the cost of the ShoWorks program and a Liaison for a Sale Consultant.

Lyndon Haines moved, seconded by Kirk Chandler to approve the cost of the ShoWorks program and the Liaison for the sale/auction Consultant in the amount of \$3,445.50 to be paid from the Extension Office budget. Motion carried unanimous.

IN THE MATTER OF JOE KULP APPEAL DECISION)

Those present were Washington County Sheriff, Matt Thomas, Prosecuting Attorney, Delton Walker, Joe Kulp, Kelly Erickson, Gordon Wilkerson, Rick Kiesz and Planning and Zoning Administrator, Bonnie Brent.

Marvin inquired of Haines if he had the opportunity to listen to the Appeal Hearing held on March 7, 2022.

Haines stated he had listened to the hearing.

Marvin stated this is not a Public Hearing and the only comment taken will be from the Commissioners and Prosecutor Walker.

Chandler stated he had had ex parte communications with Joe Kulp, Wyss, Mike Kaech, Jay Langer, Tad Mundell, Larry Lundin, Carolyn Kiesz, David Smith, Borders, Gene Wyss, and both Lundins regarding the procedures, code and what applied to it.

Haines stated he did not have any ex parte communications.

Haines moved to deny Joe Kulp's appeal of the Administrator decision. Nate Marvin seconded the motion.

Chandler stated he believed in denying the request they are putting the County in a bad position. Chandler stated "The other situation was that the Board approved the building permits on the 120 acres, they did not have any building permits left, so it was an approval of letting them have the building permits on 20 acres or more and that is what our prosecutor said was allowed in the county due to the code. Joe's situation is the same

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thing. Chandler has been told there are no more building permits on that original parcel so it puts it in the same position if that is actually what happened because there are no additional building permits allowed.” Chandler stated it is for three divisions. Chandler stated the Board was counseled by the “Prosecutor to allow the first one and I think if we deny this one, the denial would put us in a position where we will get sued and constitutionally, when the government takes away property rights they are supposed to be compensated for.” Chandler stated that the county could be “on the line for the difference between what dry Ag grazing ground is versus development ground.” Chandler informed the Board, “We all ran as republicans and in the republican platform it says that we believe in a person’s right to own property and develop that property.” Chandler stated this would take away Kulp’s right to develop the property. Chandler stated, “If we believe that we are running as republicans and believe in that platform, we have a responsibility as Commissioners to not deny this.” Chandler stated the code has not been changed. Chandler stated he knew it has been brought up that there have been other legal opinions brought up, that maybe shed a little different light on the situation, but when the first decision was made, it was made because the prosecutor told them to do so. Chandler stated, “The code states that was what the decision could be, the code has not changed, so it’s still the same code.” Chandler said denying the appeal could put the county in a position of being sued. Chandler said, “I want the record to show I am against this, on the written record and the audible one because we are violating property rights.”

Haines stated he disagreed. Haines stated he believes in property rights, but also believes that we are a nation and a party of order. Haines said, “Unlimited growth is not what is best for Washington County, specifically in our A-1 agricultural ground where we have already probably divided it up more than we should have to begin with if we are being honest.” Haines stated that if he could go back and do the Lancaster situation differently, he certainly would, “but I’m not going to keep making the same mistakes over and over again.” Haines stated it is insanity to say we made a mistake once and that we are going to keep making that mistake.

Haines stated that before he became a Commissioner, a couple of Commissioners fired a public employee in an open session. Haines inquired “Do we continually fire employees in open session”? Haines stated, “The answer is no”. Why? Because you do not make the same mistakes over and over again.”

Chandler stated that action was corrected.

Haines inquired if the employee was hired again.

Chandler stated the employee was not hired, but they corrected the firing.

Haines inquired if the decision was changed.

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Chandler stated the decision was not changed. The decision was right; they just did not go through the right procedures. Chandler stated that per the advice of the prosecutor and ICRMP, they fixed that. Chandler stated, "That really doesn't apply to this, the decision didn't have to change." Chandler stated the decision was made before the advice of the prosecutor and nothing has changed in the code since then.

Haines stated that action opened the county up to liability. Haines stated, "The only time code has been interpreted this way was when we had "that guidance from the prosecutor that one week." Haines stated that historically the code has never been interpreted that you could just build a home on 20 acres in A-1 Ag. Haines stated that Chris Meyer gave an executive summary when asked if our code allows for an unlimited number of splits on 20 acres lots. Haines read the following from the executive summary. "Specifically, you inquired whether Washington County Code 5-4-1 (b1) and (b3) allows a landowner to divide A-1 zoned agricultural property in to an unlimited number of 20 acre lots which may contain one single family residence per approved lot. I conclude that this is not permissible under the County Zoning Ordinance." Haines stated the decision here is, "Do I think Bonnie made a mistake. Do I think and Planning and Zoning made a mistake?" Haines stated he did not believe that Bonnie or Planning and Zoning made a mistake. Haines stated he believed the Board made a mistake when it came to the Lancaster decision. Haines stated he felt the Planning and Zoning Administrator and the Planning and Zoning Commission are interpreting the code the way it is written. Haines informed the group he thought Kulp is a great person and has been wonderful to deal with. Haines stated he wants Kulp to be able to buy and sell property however he wants, but this is what the code states. Haines stated, "We are a nation of laws and when we become a nation that does not have laws, we descend into chaos." Haines stated that if it is decided to change the code in the future, it could make this permissible. Haines stated that at this time, he does not feel that Bonnie or Planning and Zoning made a mistake and that is why he is voting the way he is voting.

Marvin stated that all the Board did was turn down the Lancaster request to rezone. Marvin stated that was the only action taken. Marvin stated it is correct that the code has not changed and if this is something, the Board wants to see, the code will need to be changed. Marvin said the subdivision process is available. Marvin stated he did not feel that the subdivision process was an unreasonable and it will address some of the concerns that were expressed last week regarding Emergency Services access. Marvin informed the group that the county taxpayer should not have to pay for the cost of fixing roads because the Board allowed something to go in. Marvin stated the subdivision process requires the developer to make all the necessary improvements. Marvin stated the Lancaster and Kulp situations are not the same. They are not apples to apples. Marvin stated he agreed with Haines and did not want to make the same mistake. Marvin stated the Board should not have acted on the first opinion that was given and should have waited for the final opinion.

Marvin called for a roll call vote.

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Donna Atwood called roll call vote: Kirk Chandler, No; Lyndon Haines, Aye; Nate Marvin, Aye. Motion carried.

IN THE MATTER OF PUBLIC HEARING/NUISANCE ORDINANCE)

Washington County Sheriff, Matt Thomas, met with the Board. Also present was Brian Miller, Brenda Miller, and Joe Kulp.

Nate Marvin opened the hearing at 1:00 p.m. and read the Public Notice on the record. The purpose of the hearing is to receive public comment upon proposed Ordinance 91 adding Title 8, Chapter 14 Public Nuisances to the Washington County Code.

Marvin requested testimony from those in opposition of the proposed ordinance.

Joe Kulp, 1925 Heinrich Road, Midvale, addressed the Board. Kulp stated he felt there would be winners and losers on this proposal. Kulp informed the Board he was concerned that if a person did not like him, they may call the Sheriff to harass him about his stuff. Kulp stated he does have scrap lumber and steel on his property. Kulp stated that most ranchers have “stuff” laying around. Kulp stated he did understand the need for protection when houses are close together. Kulp stated he is concerned about equal treatment.

Lyndon Haines stated that in 8-2-4 on page 2 of the proposed ordinance does exempt agricultural operations from the Nuisance Ordinance.

Brian Miller, 877 Pringle Road, Weiser, addressed the Board. Miller stated it seems the code is a bit over-reaching/over-powering. Miller stated it seems certain people are allowed to do things in the county and other people are not. Miller informed the Board that he has old cars he plans to re-store. Miller stated that he could put up a 6 to 8 foot fence to block the view of the vehicles. Miller inquired where his property rights begin and the neighbors end. Miller stated he gets the idea of the ordinance, but believes that it allows some to be exempt. Miller inquired who would be exempt.

Sheriff, Matt Thomas, stated the Sheriff’s Office will use common sense and will not be heavy handed. Thomas stated that nine times out of ten they are able to work with the property owner. This came forward due to a property with an excessive amount of trash. Thomas stated that as of now, there is no way to address the issue. Thomas stated this is not about junk vehicles or vehicles people are working on, lumber, or farm implements. The proposed ordinance is to address trash that should be taken to the dump.

One comment received in the chat via zoom “Wish I would have paid more attention to know what this is for.”

Hearing closed at 1:10 p.m.

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Haines thanked everyone for their comments. Haines stated it is not the intent to be heavy handed. The intent is to clean up some properties that are posing a threat in the county. Haines stated that the trash on the property in question would become someone else's trash in the event of a flood. Haines stated he appreciated the work Sheriff Thomas has done on the proposed ordinance.

Chandler thanked Sheriff Thomas for working on this issue. Chandler stated that the sheriff needs to have code that helps in doing his job.

Marvin stated he believed this was a good ordinance.

Kirk Chandler moved, seconded by Lyndon Haines to accept Ordinance 91.

Donna Atwood called roll call vote: Kirk Chandler, Aye; Lyndon Haines, Aye; Nate Marvin, Aye.

IN THE MATTER OF ROAD & BRIDGE/SOLID WASTE)

Jerod Odoms, Road and Bridge/Solid Waste Supervisor, met with the Board. Odoms discussed the Salubria Pit and stated per Idaho Code 31-808, the property is to go up for public auction. The Board instructed Odoms to move forward with the auction process.

Odoms discussed the cost of dura-patch oil with the Board. Odoms stated the cost has increased by approximately \$150.00 to \$200.00 per ton. Odoms requested direction from the Board on how to proceed. Odoms stated the oil company suggested projects be put off for a year.

Marvin suggested working on gravel roads for the time being in hopes that the cost of oil will go down in the future.

There was discussion of the condition of some of the gravel roads and work to be completed. Odoms stated there is also bridge work that could be done instead of chip seal and asphalt. Odoms discussed the possibility of renting a second crusher in order to produce enough rock to complete projects. Odoms stated the cost to rent a crusher would be approximately \$26,500.00 per month and \$14,250.00 per month for screening plant.

Haines stated there might not be a choice with the increased cost of oil. There is work to be done on the gravel roads and may be the best option at this time.

Chandler suggested Odoms request bids on asphalt to see where they come in. If necessary, the County can reject the bids.

Odoms will request the bids and proceed with getting rock crushed in order to keep projects moving forward.

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Odoms discussed the request from the Fair Board to pave the parking lot. Marvin will discuss it with the Fair Board at their next meeting.

Odoms informed the Board that the equipment from Western States has been pushed back due to parts not being available.

Odoms stated he would be attending the Solid Waste Conference next week. Odoms informed the Board that he presented a flagger class to Midvale and Payette Fire Departments.

Odoms informed the Board that he has received complaints regarding the condition of Weiser River Road.

Odoms discussed a quote for a copier lease at \$130.00 per month with Allied Business Solutions. The lease would be a 63 month lease on a color copier.

Kirk Chandler moved, seconded by Lyndon Haines to approve the copier lease with Allied Business Solutions for Road and Bridge. Motion carried unanimous.

Odoms reported that repair work had to be done on the doors at the Road & Bridge building at the Midvale site.

Odoms updated the Board on the Unity Bridge meeting that was held earlier in the month. Odoms informed the Board that the landowners were in favor of alternative #2, to remove the existing bridge and build the new one in place.

The Board stated they felt alternative # 4 should be considered due to the cost savings.

Odoms stated a public hearing would need to be scheduled before moving forward with an environmental study. The group reviewed the proposals presented by Keller. Odoms would work on scheduling a public hearing at a later date. There was discussion of what to do with the existing bridge after the new one is in place. The group agreed that it would be good to save a part of history if practical.

Odoms informed the Board that flooring was replaced in the scale house at Solid Waste. Odoms stated the lease on the Swain Pit is due to renew. Odoms discussed the ordinance that requires persons to tarp their loads when hauling trash to Solid Waste. Odoms stated he has received complaints that the ordinance is not being enforced. Odoms stated that Clay Peak does charge a fee to those who do not comply with their ordinance. The Board suggested putting a notice/reminder in the paper to encourage citizens to tarp their load going to Solid Waste.

Chandler indicated that the road on Chicken Hill is falling apart. Chandler stated that residents have complained that the graders have pushed gravel on to their yard/lawns.

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Nate Marvin moved, seconded by Kirk Chandler to go into executive session at 2:20 p.m. in accordance with I.C. 74-206(1) (a & b) to consider hiring a public officer, employee, staff member or individual agent. This paragraph does not apply to filling a vacancy in an elective office, (b) to consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student.

Motion carried unanimous. Kirk Chandler, Aye; Lyndon Haines, Aye; Nate Marvin, Aye.

Nate Marvin stated they were out of executive session at 2:50 p.m.

Motion by Nate Marvin, seconded by Kirk Chandler and unanimously carried to recess at 2:50 p.m. until March 21, 2022 at 8:45 a.m.

Chairman, Board of County Commissioners

ATTEST:

Clerk

A full audio recording of the Commissioner Meeting is available at the Clerk's Office upon request.