

March 28, 2022

The Board of County Commissioners of Washington County, Idaho, does hereby meet this 28th 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.

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

IN THE MATTER OF CORRESPONDENCE/MEETINGS AND REPORTS)

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

Chandler reported he participated in the interview process for the Magistrate Commission last week. Chandler reported he attended a meeting with the State Controller's Office regarding the Transparent Idaho website.

Bonnie Davis, Weed Superintendent, presented the U. S. Forest Service Agreement to the Board for the Chairman's signature. Marvin signed the agreement.

IN THE MATTER OF MINUTES)

The minutes of the Board not heretofore approved of March 21, 2022 were approved as amended.

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 \$131,041.42 for general expenses by a motion of Kirk Chandler, seconded by Lyndon Haines. Motion carried.

IN THE MATTER OF PRECINCT LEGAL DESCRIPTIONS)

Donna Atwood, Clerk, met with the Board.

Lyndon moved, seconded by Kirk Chandler to approve the precinct legal descriptions as presented. Motion carried unanimous.

Lyndon Haines moved, seconded by Kirk Chandler to approve the ballot order for the May 2022 Primary Election. Motion carried unanimous.

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Lyndon Haines moved, seconded by Kirk Chandler to approve the polling locations for the May 17, 2022 Primary Election. Motion carried unanimous.

IN THE MATTER OF RENAMING A PRIVATE ROAD)

Lowell Thompson, 866 Haas Road, met with the Board. Thompson informed the Board that his father had recently passed away. Thompson requested permission to rename the private driveway after his father.

Marvin informed Thompson that he would need the neighbors to be in agreement. Marvin stated Haas Road is in the Weiser Valley Highway District and that they would be the entity who would approve the naming of the private road.

IN THE MATTER OF PROSECUTING ATTORNEY)

Delton Walker, Prosecuting Attorney, met with the Board.

Members of the public present were Kay Wyss, Nancy Williams, Gene Wyss, Michael Kaech, and Lisa Collini.

Marvin discussed a confidential email from Walker to the Board and Bonnie Brent regarding issuing building permits to applicants on parcels of land 20 acres or larger on the property previously owned by Lancaster. The letter also stated that Walker had advised Brent to not issue permits applied for after August 27, 2021 after receiving a letter from Chris Meyer. Marvin inquired if the Board should instruct Brent to not issue any additional building permits at this time.

Walker clarified that permits should be denied only on A-1 unless there are original splits available. If the original splits have been used, the applicant would need to go through the subdivision process.

Brent clarified that she should issue permits on the Gentry Lane property.

Walker stated that was correct based on the information that was available at that time. Walker informed the Board a written application had not been received since the Woodcock application. Walker stated that at this point, permits should be issued on the Lancaster property, but no others on A-1 Ag. Walker informed the Board the Lancaster situation was a compromise where many of the neighbors were not in favor of the rezone.

Walker discussed House Bill 864 where Eagle and Star properties are in a lawsuit over the area of city impact. Walker informed the Board there is a pending bill that could address the city impact area.

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Chandler inquired about the land on West 9<sup>th</sup> street that was annexed in to the City of Weiser. Chandler requested that Walker look into the issue as he believed the matter should have come before the Board since the property is located in the impact area.

Walker reiterated that the Lancaster decision was a compromise between a rezone to A-2 and allowing many homes just outside the city impact area. The denial of the rezone limited the number of homes

Chandler inquired if the motion the Board makes have any relevance.

Walker stated a motion of the Board does have relevance. The issue before the Board was the rezone and it was relevant in the sense that the rezone was denied.

Chandler stated the Board denied the rezone per Walker's advice because the code said 20 acres or more could have a single-family dwelling. Chandler stated, "So the fact that we were denying the rezone doesn't have to do with anything that the code says what he wants to do is right. Nate stated that he listened to the audio and he denied the rezone and that's all."

Walker stated that was correct. Walker stated he had listened to the audio as well. Walker stated the point is Lancaster had not made an application for a house in A-1 at that time. Walker said, "Nate denied it appropriately because he denied the only thing that was actually before you (the Board) or Bonnie at the time. You (Kirk) threw in 'he can do this', but he had not even applied for it."

Chandler stated, "I don't remember that I threw that in. Nate stated he listened to it."

Walker stated he listened to the recording too.

Chandler stated, "If 20 acres or more are not allowed a building permit if there are no splits left, then his (Lancaster's) six splits that we denied the rezone for and he went ahead and sold them and according to what you are saying and what Nate said, there are no building permits available under our code."

Walker said, "Bonnie was advised, based on the conversation that we had and the discussion we had, to go ahead and grant those." It was consistent with the Woodcock case and Gary Allen's opinion letter. "Then we sought additional advice." Walker stated he had gone over this multiple times.

Chandler stated it did not make sense. "If the Woodcock decision was granted by a Judge, then, why aren't we doing that?"

Walker stated a code change was made since that time. "But apparently, we didn't clarify it enough because Gary Allen still thought, 'well yeah, you could still do that'."

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Chandler stated, "If we made the code change though, it still doesn't allow Sam to have building permits."

Walker stated the code change was made with the intention to limit that, but Gary Allen saw that as a problem per his letter.

Chandler stated the decision to deny was based off of advice from Walker.

Walker stated that was the way it was interpreted at the time.

Marvin stated Gary Allen had provided advice to Walker and then a letter was received from Chris Meyer.

Chandler argued that the motion had been made and if it was incorrect, they should go back and change the motion.

Marvin stated that is why it only applies to the Lancaster situation. Marvin stated Woodcock was ordered by the Judge.

Chandler stated it seems that "we are putting ourselves in a position where we are just picking the people we want to do things for."

Walker stated it may appear that way. Walker stated there have been two people from 2008 to 2021. Walker stated the code was changed in 2012.

Chandler stated an attorney opinion does not change the code.

Walker stated the attorney opinion is an interpretation of what they believe should be the interpretation of the code.

Haines stated he has some preliminary changes that he will send to Brent for review. He stated that he is looking at A-1, A-2, A-3 type zoning. Haines stated that if property is rezoned to A-2 it does not allow for a house on every acre. Haines stated he does not feel that most people in the County that is appropriate to do that throughout the County. Maybe that could be considered next to the City and could be allowed in an A-3 Zone. Haines reiterated that he is working on the issue with Brent and will bring to the Board as soon as they can. Haines stated, "That way we can clarify the code, make it simple to understand, which I think is what we want. I think that is part of what Kirk is talking about. There are parts of the code that are difficult to understand." Haines informed the group he has read other counties codes. Haines stated some counties have done a better job and their code is more clarified and there are some that are much harder to understand.

Haines reported he has received two calls regarding the odor at Intrinsic Organics.

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Marvin stated Intrinsic Organics is not regulated by the Department of Environmental Quality (DEQ); the County regulates them.

Walker stated the County could regulate the issues at Intrinsic Organics. Until an issue comes before the Board, there are no issues to address.

IN THE MATTER OF PLANNING AND ZONING)

Bonnie Brent, Planning and Zoning Administrator, met with the Board. Also present was Sheriff, Matt Thomas; Prosecuting Attorney, Delton Walker; Joe Kulp, and Brian Heller with Angel Homes, LLC.

Brent discussed the Angel Homes rezone request for A-1 to C-1, Commercial for property located on Highway 95 for a Rustic Theme Village with small retail vendors and an event venue. Brent stated the Planning and Zoning Commission had recommended to deny the request to rezone due to there is agricultural potential on the property in a primarily agricultural area, traffic and access concerns, and the possibility of opening the land up to commercial endeavors that would be less desirable than the applicable use.

Haines stated he had read the minutes from the Planning and Zoning hearing. Haines stated he would not mind holding a separate hearing on the request in order to gather additional information. Haines stated a Special Uses in an A-1 zone is tied to recreation, tourism or neighborhood needs, and roadside stands for agricultural products. Haines stated that some of the things the applicant is trying to do would fit, but may be more of a Special Use than a rezone to Commercial. It is a dangerous stretch of road and there is access issues in the subject area.

Brent stated it would be a new application and a different process for the applicant to go through for a Special Use. The Special Use could not be granted through the current application.

Chandler stated it was not addressed that the property is in the area of preferred growth. A business is already located across the road from the subject property. Chandler inquired is the business zoned Commercial or A-1 Ag.

Brent stated that property is zoned Commercial.

Chandler stated the rezone would provide more parking for the existing business. Chandler inquired if the well would be sufficient for irrigation.

Marvin stated the owner would have to apply for the water rights to the well with the State of Idaho.

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Chandler stated there is no irrigation water available. Chandler said the property could be grazed as dry land. Chandler informed the group he thought it was a good use for the property. It is in the area of preferred growth.

There was discussion of possibly converting the property back to A-1 if there was a need. There was also discussion of requesting a development agreement in a commercial zone.

Haines stated he did not believe the request was unreasonable and would like to have another hearing. Haines stated he believed the request did fit the area.

Lyndon Haines moved, seconded by Kirk Chandler to hold a hearing regarding the Angel Homes LLC, Brian Heller Rezone Decision. Motion carried unanimous.

The group discussed code enforcement. Marvin stated he had received some feedback regarding the code enforcement being handled through the Planning and Zoning Office. Marvin recommended that code enforcement be handled through the Sheriff's Department.

Haines stated he believed the Sheriff had expressed the desire to handle code enforcement.

Brent inquired if the Board had reviewed the updates to Title 1 Chapter 4 she had provided.

The group reviewed the updates provided by Sheriff Thomas to Title 8, Police Regulations and the penalty associated to each chapter.

Brent informed the Board there are five members of the Planning and Zoning Commission who are up for re-appointment.

Marvin requested the re-appointments be added to next week's agenda.

Brent informed the Board that with their permission she would like to send the clarifications of the code from Chris Meyer without any changes to hearing with the Planning and Zoning Commission.

Walker stated Meyer had the clarifications ready for several months.

Haines and Marvin both agreed.

Brent stated it is too late to add to the April hearing schedule, but will add it to the May schedule.

Brent requested confirmation that she is to issue building permits on the Lancaster property.

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Haines and Marvin instructed Brent to continue issuing the building permits on the Lancaster property.

IN THE MATTER OF AMBULANCE)

Nate Marvin moved, seconded by Lyndon Haines 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. 22-0013 for payroll expenses in the amount of \$24,200.87 was presented to the Board for review.

Smith reported the Ambulance District had twenty-seven calls for service last week, which included seven transfers, and four public assists/refusals for care. Smith discussed the need for narcan to administer on emergency calls due to drug overdoses.

Smith reported the new tires would be installed this week. Smith informed the Board that Nate Lafallete has not been replaced at this time.

Lyndon Haines moved, seconded by Kirk Chandler to approve Order No. 22-0013 for payroll expenses in the amount of \$24,200.87. Motion carried unanimous.

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 ROAD & BRIDGE/SOLID WASTE)

Jerod Odoms, Road and Bridge/Solid Waste Supervisor, met with the Board.

Nate Marvin opened the sealed bid received from Justin and Jodie Mink for pasture lease on property located at 3003 Goodrich Road, Cambridge, Idaho. Justin and Jodi Mink submitted a bid in the amount of \$1,299.98 annually on the 60-acre parcel. Marvin stated no other bids were received.

Kirk Chandler moved, seconded by Lyndon Haines to lease the Fox Pit pasture (3003 Goodrich Road, Cambridge, Idaho) to Justin and Jodi Mink in the amount of \$1,299.98 per year for a period of two years. Motion carried unanimous.

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Odoms discussed the cost of oil and stated he will place a request for bids. Odoms stated the bid opening would be on April 25, 2022. Odoms inquired of the Board if he should move forward in preparing to do chip seal. The Board instructed Odoms to proceed with chip seal and road maintenance.

Odoms informed the Board he had spoken to Mr. Swain regarding the use of the Swain Pit. Odoms stated the lease on the Swain Pit was up in February. Mr. Swain has indicated that he would like to continue to lease to the County. Odoms will present the lease documentation at a later date. Odoms stated there would not be an increase in cost to the County. There was discussion regarding the other rock pits within the County.

Odoms informed the Board he had received notification that the County received a \$50,000.00 grant for an upgraded transportation plan. Odoms stated an Engineer could now be hired to update the plan. Odoms stated the funding should be available at the beginning of the new fiscal year.

The Board discussed the Findings of Fact on Heinrich Road.

Lyndon Haines read the Findings of Fact on the record.

Lyndon Haines moved, seconded by Kirk Chandler to have the Commissioners sign the Heinrich Road Finding of Fact and Conclusions as presented. Motion carried unanimous.

Odoms discussed Solid Waste operations and the items that have been received at the Solid Waste sites. Odoms stated 640 tons of materials were delivered to the Weiser site last month.

Marvin inquired if there had been any communication regarding the River Dock Road Railroad crossing. Odoms stated he has not been contacted by the Railroad or ITD (Idaho Transportation Department).

Nate Marvin moved, seconded by Lyndon Haines to go into executive session at 11:54 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. Motion carried unanimous. Kirk Chandler, Aye; Lyndon Haines, Aye; Nate Marvin, Aye.

Nate Marvin stated they were out of executive session at 12:04 p.m.

Motion by Nate Marvin, seconded by Kirk Chandler and unanimously carried to recess at 12:05 p.m. until April 4, 2022 at 8:45 a.m.



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Chairman, Board of County Commissioners

ATTEST:

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Clerk

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