

April 12, 2021

The Board of County Commissioners of Washington County, Idaho, does hereby meet this 12th day of April 2021.

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 led the Pledge of Allegiance. Lyndon Haines gave the invocation.

IN THE MATTER OF CORRESPONDENCE/MEETINGS AND REPORTS)

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

Nate Marvin moved, seconded by Kirk Chandler to approve the 2021 Arbor Day Proclamation. Motion carried.

The Board signed a Thank You Letter addressed to Tim Atwood thanking him for his assistance in hiring a new Ambulance District Director.

Nate Marvin moved seconded by Kirk Chandler to approve the Idaho Liquor Catering Permit for G & B Enterprises Inc. doing business as Slims to be used April 23 and April 24, 2021 from 12:00 p.m. to 2:00 a.m. Motion carried.

IN THE MATTER OF MINUTES)

The minutes of the Board not heretofore approved of April 5, 2021 were approved as amended.

IN THE MATTER OF CLAIMS)

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

The Auditor was authorized to issue warrants totaling \$158,459.83 for general expenses by a motion of Lyndon Haines, seconded by Nate Marvin. Motion carried.

The Auditor was authorized to issue warrants totaling \$34.81 for social services expenses by a motion of Kirk Chandler, seconded by Lyndon Haines. Motion carried.

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IN THE MATTER OF JUVENILE PROBATION)

Dahlia Stender, Juvenile Probation Supervisor, met with the Board. Stender discussed a donation to the Weiser High School Senior Class Celebration. Stender stated the donation is paid from lottery funds.

Kirk Chandler moved, seconded by Lyndon Haines to approve the donation to the Senior Class Celebration in the amount of \$500.00. Motion carried.

Stender discussed the Juvenile Justice Community Alternative (CBAS) Program and how the funding is used to serve the juveniles in the area. Stender also discussed the Juvenile Justice Substance Use Disorder Services Program and the funding used through March 31, 2021.

Stender stated juveniles have assisted with work in the courthouse yard as community service.

IN THE MATTER OF EMERGENCY MANAGEMENT)

Tony Buthman, Emergency Manager, met with the Board. Buthman reported the closeout paperwork on the 2017 PDM grant has been completed. Buthman stated the grant was with regard to the Hazard Mitigation Plan.

Buthman discussed the current water level of the Weiser River. Buthman also gave an update as provided by the Army Corps of Engineers regarding the Woodhead Fire. Buthman discussed drought declarations as many counties in the eastern part of the State have adopted drought resolutions.

Buthman updated the Board on training he has attended and classes/trainings he will provide in the coming months.

IN THE MATTER OF LETTER REGARDING PLANNING AND ZONING)

Mikel Smith met with the Board. Also present was Larry Lundin, Mary Lundin, Ron Laurence, Jay Langer, Michael Kaech, Allis Chandler, David Smith, Lisa Collini, Ray, Vivian Van Duran, Nancy J. Williams, Diana Noe, Marv Williams, Gene Wyss, Margaret Ann Border, Sam Lancaster, Stefanie Lancaster, Tanya L. Moye, Ron Jaeger, Samuel David Tate, Jay Reiss, Jerod Odoms and Alex Chavarria.

Mikel Smith stated she represents a group of citizens who would like to provide input regarding changes to County Code. Smith informed the Board that the group had sought out for an objective outsider and had contacted Gary Allen with Givins Pursley, LLP. Smith stated the group did not request that Allen to represent the group, but did request he offer an opinion of the current County Code.

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Smith read portions of the letter provided by Allen regarding the counties Subdivision Ordinance. Smith stated per the opinion provided by Allen, the Subdivision Ordinance may not comply with the agricultural protection provisions of Idaho Code. Smith discussed the original parcel splits process and indicated per Allen's review, the process creates numerous ambiguities and problems.

Smith stated there seems to be serious issues that need to be resolved with the County Code relating to Planning and Zoning. Smith informed the Board that as tax payers, she is concerned that we are vulnerable to lawsuits resulting in financial liability. Smith stated as citizens from the more rural part of the county they would like more equity into housing opportunities for the area. Smith stated a more careful and less restrictive interpretation of the current code, especially in reference to housing on agricultural lands could alleviate some of the legal vulnerability from individuals for class action suits.

Smith inquired of the Chairman if he had read the letters from the citizens written last year regarding Planning and Zoning regulations.

Marvin stated he had not read all the letters. Marvin stated he would review the letters at the appropriate time. Marvin stated that Planning and Zoning has a job to do and he plans to let them do their job with guidance from the Board and the County attorney. When Planning and Zoning presents recommendations to the Board, he will address it at that time.

Smith inquired if the chairman had reviewed the petitions that were submitted at a previous meeting.

Clerk Atwood stated the petitions are part of the record from that meeting.

Smith provided copies of the letter written by Gary G. Allen with Givens Pursley LLP to the Board.

IN THE MATTER OF PLANNING AND ZONING)

Bonnie Brent, Planning and Zoning Administrator, met with the Board. Brent discussed the Crossley Subdivision Final Plat for a one-lot subdivision on Mill Road in Cambridge with the Board.

Marvin stated the Planning and Zoning Commission had submitted a favorable recommendation to the Board. Marvin inquired if Southwest District Health had signed off on the plat.

Brent stated that Southwest District Health had signed the plat. Brent stated the property had been rezoned in 2018.

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Kirk Chandler moved, seconded by Lyndon Haines to approve the final plat for the Crossley Subdivision. Motion carried.

Brent discussed the Samuel and Stefanie Lancaster Rezone decision.

Marvin inquired if any of the Commissioners had any conflicts of interest or ex-parte communications regarding the rezone.

Chandler stated he has had discussions with quite a few different people but did not feel it would change his decision.

Marvin reminded those present that the Board will not be taking public comment.

Chandler discussed the County Comprehensive Plan and the Findings of Fact in relation to the requested rezone. Chandler presented and reviewed a list of questions/concerns he believed it needed to be addressed with regard to the Lancaster Rezone request. Chandler stated he would like the rezone readdressed by the Planning and Zoning Commission.

Haines stated it was his understanding that there were 22 acres of the subject property that had been considered prime agricultural land if irrigated. The remaining acreage was considered marginal agricultural use. Haines stated he understood that all the Board was to consider at this point was the rezone of the property, not a possible subdivision even though that is Lancaster's intention. Haines stated he had reviewed the rezone requirements used by Planning and Zoning. Haines stated that the 22 acres has been used for grazing, considered prime agricultural land, and should be reviewed again by the Planning and Zoning Commission. Haines stated as a whole, the property is on the edge of the area for planned growth. Haines stated the Board cannot ask questions or collect additional information, but have to rely on the information provided by the Planning and Zoning Commission. Haines informed the group he would like to see the well logs since water is a concern within Washington County. Haines stated he did not believe that Planning & Zoning had addressed all areas of concern.

Chandler stated a rezone opens the area for development. Chandler stated a subdivision ordinance is required by the County in order to divide a piece of property. Subdivisions are allowed when the process has been followed. Chandler stated the need to be considered is whether to allow subdivision growth in that area. Chandler stated that water is a concern and studies have not been done. Chandler stated a hydrology study would be a good idea.

Chandler stated the property is not in the area of growth. Chandler stated that development has been allowed on the other side of Highway 95 in that area.

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Haines stated that code allows consideration on a case-by-case basis. Haines stated that access and water issues are a major concern. There is more information needed from Planning and Zoning.

Marvin stated County Code 5-4-2 Section H regarding rezone requirements reads no land zoned A1 might be rezoned to a different use until it can be shown that the land is not prime Ag land. Marvin stated he needed information to be presented by Planning and Zoning stating the property is or is not prime Ag. Marvin stated that water quality and availability, septic capacity, soils, flooding potential, and other factors affecting development are to be addressed per county code. Marvin stated these items go along with the Comprehensive Plan, which states existing water rights are to be respected, protected and maintained in any process of development. The effects of proposed development on existing water availability and quality are to be carefully addressed during any land use decision-making process". Marvin read from page 28 of the Comprehensive Plan that addresses "no residential development allowed without proper access to a public street or road. It shall be the responsibility of the developer to meet county standards. Any new road that accesses county, highway district or state roads must be approved by the proper jurisdiction." Marvin stated the "Applicant applying for rezone shall submit a report as designated by the county addressing these conditions for consideration by the county prior to rezoning the property".

Marvin stated it was his understanding that the Board would like to send the application back to the Planning and Zoning Commission to address prime agricultural land, the road and water quality/availability issues.

The Board discussed the prescriptive right-of-way and where the County road ends. It was questioned if the applicant could improve the road.

Haines inquired if Planning and Zoning could conduct a site visit.

Walker stated it is not practical for Planning and Zoning to conduct a site visit. All fact finding information is to be recorded.

Kirk Chandler moved seconded by Nate Marvin to send the Lancaster rezone request back to the Planning and Zoning Commission for additional information. Motion unanimously carried.

Walker encouraged the Board to provide a list of specific information they would like from the Planning and Zoning Commission.

Marvin inquired if Brent had received any additional communication regarding the landing of airplanes on property located on Cove Road.

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Nate Marvin moved, seconded by Kirk Chandler to go into executive session at 10:21 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 unanimously. Kirk Chandler, Aye; Lyndon Haines, Aye; Nate Marvin, Aye.

Nate Marvin stated they were out of executive session at 10:47 a.m.

Nate Marvin moved seconded by Lyndon Haines to appoint Ron Jaeger to a four-year term to the Planning and Zoning Commission. Nate Marvin; Aye; Lyndon Haines, Aye; Kirk Chandler; abstained. Motion carried.

Marvin requested Brent notify the applicants.

IN THE MATTER OF PROSECUTING ATTORNEY)

Delton Walker, Prosecuting Attorney, met with the Board. Walker discussed the letter shared by Mikel Smith with the Board. Walker stated that the attorney firm Smith had contacted is the same firm Washington County consults with and that the Board does have a copy of the Idaho Land Use Manual. Walker informed the Board that many of the items Smith had discussed are items that have been discussed at the county level in the past. Walker stated that these items do need to be addressed. Walker informed the Board that County Code was written when the primary concern was preservation of prime agricultural land. When the code was amended in 2003 to add the 4 splits, it was a compromise between preserving prime Ag and allowing some growth. Walker stated he has received opinions just like the one submitted by Smith in the past. Walker informed the Board if an attorney who specializes in Planning and Zoning were to review any county's code, they would probably say something very similar. Walker stated it is not easy to have a code that adapts quickly with the changing times and needs of the County. The County appears to have a number of citizens who are interested in growth than preserving prime agricultural ground. The culture of the county is adapting and changing. The question is are we going to adopt to change and be more like Canyon and Ada County or are we going to try to preserve prime agricultural land. Certain moves or changes could change the whole dynamic of Washington County. Walker indicated that the opinion from the attorney at Givins Pursley is generally an opinion that balances the need for preserving agricultural land and with the right to growth. The attorney firm provides an Ada County perspective. Do we want to grow like Ada and Canyon County? Walker informed the Board that the County was sued in or around 2006 by Smith's husband regarding the width of the road. The basis of the lawsuit was related to the fire department having the width of a road different in Midvale, Cambridge and Weiser. Walker stated the attorney opinion indicated that Washington County code "may be problematic". Walker encouraged the Board to carefully consider comments made by

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Mikel Smith and where the proposed changes will lead the county and what they will do to growth and/or protection of the County.

Marvin discussed the Idaho Land Use Handbook and development agreements.

Walker stated there is a provision in County Code for development agreements. Walker stated that County Code is designed to provide some discretion on what land will be and will not be developed.

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.

Debbie Warren, Deputy Clerk, called roll call: Kirk Chandler, present; Lyndon Haines, present; and Nate Marvin, present.

Luke Smith, Ambulance District Director, met with the Board. Also present was Christy Maldonado.

Maldonado provided an update to the Board on the on-line paramedic program she is participating. Maldonado stated on-line studies are difficult but she is already thinking differently on calls. Maldonado stated she appreciates the ability to study while on duty.

Smith stated that it is good to have a fresh perspective from someone that is learning new things. Smith informed the Board that Maldonado is also in charge of organizing supplies for the station and has a good work ethic.

Order No. 21-21 for general expenses in the amount of \$3,328.74 and Order No. 21-0014 for payroll expenses in the amount of \$23,748.44 were presented to the Board for review.

Smith reported the Ambulance District had twenty calls for service, which included eight transfers, two public assists, and two refusals for care last week.

Smith informed the Board he had a good meeting last week with the Cambridge Ambulance. Smith indicated that he plans to continue training and talks with the other districts.

Smith informed the Board the District may need to purchase new computers and desks. The generator is in and he will contact Indianhead Electric about the installation. Smith is also looking into a website for the Ambulance District. Smith also discussed the purchase of a server. Smith presented anticipated costs for website design and server purchase to the Board for review.

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Kirk Chandler moved, seconded by Lyndon Haines to approve Order No. 21-21 for general expenses in the amount of \$3,328.74. Motion carried.

Kirk Chandler moved, seconded by Lyndon Haines to approve Order No. 21-0014 for payroll expenses in the amount of \$23,748.44. Motion carried.

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

Debbie Warren, Deputy 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. Odoms presented an Application for Placement of Culverts/Approaches for access for Rod Woodland on Schwenkfelder Road.

Kirk Chandler moved seconded by Lyndon Haines to approve the Application for Placement of Culverts/Approaches for access for Rob Woodland on Schwenkfelder Road. Motion carried.

Odoms presented an Application for Placement of Culverts/Approaches for Maria Alder on Hill Road to the Board for review.

Kirk Chandler moved seconded by Lyndon Haines to approve an Application for Placement of Culverts/Approaches for Maria Alder to be placed at 411 Hill Road Weiser. Motion carried.

Kirk Chandler moved seconded by Lyndon Haines to approve a demand warrant to be issued to Western States Equipment in the amount of \$106,265.00 for a backhoe for Solid Waste. Motion carried.

Odoms discussed the requested asphalt work at the Fairgrounds. Odoms informed the Board that he encouraged the Fair Board to budget to cover the costs.

Odoms informed the Board he had met telephonically with the Forest Service regarding the Annual Road Agreement. There was discussion regarding cattle guard bases and the snowmobile parking on Seid Creek Road. The Forest Service agreed to trade work on the project.

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Odoms reported that there were two MSHA (Mining Safety Health Association) violations last week. One was a paperwork violation and the other was a guard missing on equipment. Both violations have been addressed.

Odoms reported he had requested information on turnout lanes on Highway 95 at the Solid Waste sites. Per turnout lane, the estimated cost of \$80,000.00. Odoms stated he would submit paperwork to LHTAC (Local Highway Technical Assistance Council) for a safety grant to cover the costs.

Odoms informed the Board he met with Cambridge Ditch Company. County owns 15 shares at the Fox Pit. The ditch company has agreed to allow Road & Bridge to pump water from the ditch while working on Goodrich Road.

Haines inquired on repairs to Loafer Lane. Odoms reported there are plans in place to do work on Loafer Lane.

Nate Marvin moved, seconded by Lyndon Haines to go into executive session at 1:24 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 1:31 p.m.

IN THE MATTER OF WASHINGTON COUNTY FAIR)

Chris and Harvey Braun met with the Board. Chris Braun presented a calendar schedule for rentals at the fairgrounds. Braun reviewed the request for the 2022 budget for the Fairgrounds and informed the Board they had requested a 3% increase over last year. Braun reported that R & M Metal donated \$7,000.00 in metal for the construction of the swine barn.

The group discussed paving at the fairgrounds.

Chris Braun discussed the annual yearbook from the Fair. Braun stated that 2020 was the first year to print the yearbook and paid for through donations and the purchase of ads.

IN THE MATTER OF BROADBAND DISCUSSION)

John Stuart, CEO/President of Midvale Telephone Exchange (MTE), Jerry Piper, Vice President of Operation with Cambridge Telephone Company (CTC), and Ron Rembelski,

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General Manager of Farmers Mutual Telephone Company (FMTC) met with the Board. Also present was Dan Grigg, James Westcott and Luke Smith.

Jon Stuart addressed the Board. Stuart informed the Board that the State of Idaho had sponsored a broadband project last year and FMTC and the City of Payette were recipients of the grant funding. Stuart discussed the parameters of the Federal Funding, which are not available from the U.S Treasury at this time.

Marvin informed the group that the Board had discussed what would be a good use of the funding and had agreed that improvements to broadband would benefit most of the County.

Grigg provided an overview of the project that was completed for the City of Payette.

Stuart stated fiber is currently being installed in the Midvale valley. Stuart also discussed infrastructure projects.

There was discussion of possible underserved areas within the County. The group discussed the cost per mile to install additional fiber.

Chandler inquired if the providers have projects that they would like the Board to consider.

Motion by Nate Marvin, seconded by Kirk Chandler and unanimously carried to recess at 2:43 p.m. until April 19, 2021 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.