

April 19, 2021

The Board of County Commissioners of Washington County, Idaho, does hereby meet this 19th 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 Donna Atwood 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. The Board reviewed an April 9, 2021 letter from the Local Highway Technical Assistance Council regarding the LHTAC Quarterly Progress Report.

Lyndon Haines moved, seconded by Kirk Chandler to approve the Weiser School District Armory as a Polling Place for the Weiser Valley Highway District Election. Motion carried.

Nate Marvin moved, seconded by Kirk Chandler to approve a duplicate warrant to be issued to Kathleen Skow in the amount of \$194.00. Motion carried.

Nate Marvin moved, seconded by Kirk Chandler to approve a duplicate warrant to be issued to Nancy Lazaro in the amount of \$11.00. Motion carried.

The Board discussed an email regarding the guidance from the U.S. Treasury and the American Recovery Plan Act.

IN THE MATTER OF MINUTES)

The minutes of the Board not heretofore approved of April 12, 2021 were approved as amended.

IN THE MATTER OF SITE SURVEY)

Dion Zimmerman with Design West Architects met with the Board. Zimmerman informed the Board the process needs to be stated on the drawings.

Marvin suggested that Dean Coon with Atlas Surveying conduct the Site Survey.

Zimmerman stated he would reach out to Atlas Surveying and others who may be interested in conducting the Site Survey. Zimmerman will contact the City of Weiser regarding water and sewer lines.

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IN THE MATTER OF INFORMATION TECHNOLOGY)

Robert Peterson, Information Technology Director, met with the Board. Peterson discussed the hours needed to assist with updating the exchange server. The project took more hours to complete than expected. Peterson stated he would like to increase the service hours with CompuNet.

Lyndon Haines moved seconded by Kirk Chandler to approve an additional \$4,000 of service hours with CompuNet. Motion carried.

Peterson gave an overview presentation on the KnowBe4 email phishing program to the Board.

Peterson informed the Board that he had received a Coverage Map from Verizon Wireless for the area.

IN THE MATTER OF PLANNING AND ZONING/PROSECUTING ATTORNEY)

Bonnie Brent, Planning and Zoning Administrator, met with the Board. Brent presented the Building Permit Report to the Board. Also present was Prosecuting Attorney, Delton Walker.

Marvin inquired on the status on the occupancy permit for AFC Finishing.

Brent stated there are additional inspections that need to be completed. Building Inspector, Steve Pierson, has met with Carl Hagan with AFC Finishing to discuss the issuance of the Occupancy Permit.

Brent presented a list of items to the Board to review before submitting the Lancaster Rezone back to the Planning and Zoning Commission. There was discussion of re-defining the “Area of Preferred Growth” within the County. The Board also discussed the definition of “Prime Ag”. There was also discussion regarding the four splits on the original parcel and preserving Prime Ag ground.

Chandler discussed the Comprehensive Plan and development in an A1 Zone.

Brent discussed the split process and how it is handled by her office through the Special Use process. Brent stated per code, the dwelling is to be on one acre or twenty acres or greater. Brent stated there is nothing in the code that prevents a one-acre dwelling site with four acres of agricultural land.

Chandler stated that the code allows three one-acre splits on a twenty-acre parcel.

Brent stated that previously the code had indicated a five-acre split for a home instead of one-acre. Brent stated that depending on when the property was split that would determine the size of the lot and whether it was a conforming or non-conforming lot size.

Chandler stated there is not a grandfather clause in the code.

Prosecuting Attorney, Delton Walker, stated “grandfather” does not appear in County Code. It is an implied understanding to ensure property rights are not taken away. If the county passes or changes a

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law that would take away a right, current landowners should retain that right. New landowners or new purchases would have to follow the current and new law.

Chandler stated that in 1979 when the County passed to take away development rights, he should have all the development rights in place at that time and the law would not apply to him on his property.

Walker stated the County passed that law because the State implemented the Local Land Use Planning Act. The State indicated that counties will adopt subdivision ordinances. Walker stated the argument that development rights were taken away is with the State, not the County. Walker stated realistically, the County did not take away development rights, nor did the State. A person has always had that right, but the person had to go through the subdivision process which was passed because the State wanted to orderly develop the land. When a subdivision ordinance is in place, persons are required to go through the process of having adequate roads, adequate fire protection, adequate lighting, sewer and other services. The rights were not taken away, but if a person wanted to develop properties, you were required to follow some rules. Walker stated that otherwise, everyone would do whatever they want and there would be a bunch of houses with no access, the roads are terrible, there would be inadequate sewer, etc. Walker stated the rights are still there, you just have to follow State rules which required Counties to put in rules for development of close housing.

Chandler questioned that as of 1979 and because the State took away property rights he would not be grandfathered in. The County passed an ordinance under State law to preserve farm land and only allow one house on an original parcel. Chandler stated if his rights were grandfathered, that would not apply to him, because he had that right before that was passed. Chandler stated to Walker that he should have property rights without the restriction.

Walker stated when those laws were passed in 1979 there were no objections to the law. There was an intent to preserve ranches and farms while clustering homes in subdivisions at that time. Walker stated that now, 50 years later, things are changing but, we have implemented the subdivision process. Walker stated we are not taking away property rights. We are providing for the orderly development of property. As development began, the State of Idaho sought to provide orderly development while providing for roads, emergency services, sewage, water, etc. If orderly development is not what is wanted at this time, it would be going against State law that requires a Subdivision Ordinance. Walker stated he believed the County is at the point of transition where more money can be made by selling large portions of property for development purposes than by farming and ranching. The desire for development has changed. Walker encouraged the Board to get recommendations from qualified professionals. There may be more citizens who want to develop their property than preserve the farms and ranches. Walker suggested that the Board get an opinion from an outside neutral party who is not motivated by development or by agriculture. Walker informed the Board that changes were not needed when citizens want ranches to remain ranches or farms to remain farms.

Chandler stated that in order to allow the suggested developments that have come before the Board, it would be going against the Comprehensive Plan and County Code. Chandler stated the development

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does not fit what code says. Chandler stated that there is nothing in the code to allow a residential subdivision.

Haines inquired if the point of the “one acre or larger special use” to allow space for wells and sewer systems.

Walker stated there are different types of subdivisions allowed in the subdivision ordinance. There are tightly packed subdivisions or rural subdivisions. There are development plans.

Chandler stated residential subdivisions are not allowed in A1, A2, Commercial, or Industrial zones.

Haines stated he believed that the point of the code was to discourage that and have a home on an acre or more. Haines stated that there is a definition of a residential subdivision in County Code.

Chandler stated a residential subdivision is allowed inside city limits, but in the impact area, it is not allowed.

Haines stated the city would need to annex the subject property into the city.

Brent stated homes would be allowed on a one-acre lot.

Chandler stated Cambridge did not want one-acre lots because it is too hard to provide services.

Brent stated the City of Cambridge did not want to rezone an entire area as A2 that is in the impact area. The City’s concern was the ability to provide services in some areas.

Walker stated it is a matter of services with sufficient space between septic systems and wells as required by Southwest District Health. Walker stated persons can move forward, but they have to follow the rules and regulations that are in place so services can be provided.

The group discussed the impact areas of the City of Midvale and the City of Cambridge and whether or not the citizens are in favor of annexation.

Walker stated the reality is, everybody can move forward, they just have to follow the rules and regulations that have been put in place. There are legitimate reasons to have a subdivision ordinance. Walker stated he is in favor of hiring professional services if we are at a tipping point where a majority of the citizens no longer have a primary goal of preserving agricultural land, but rather have the primary goal to allow for development of lands. Walker stated that advice is needed on what adjustments are needed to County Code. Walker informed the Board that there needs to be a solution. Walker recommended that outside assistance be hired and estimated the cost to be \$30,000.00 to \$50,000.00 for that service. Walker stated the Comprehensive Plan and County Code would have to be completely changed as they are currently written, we are an agricultural community.

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Walker stated that he reviewed the letter provided by Mikel Smith of the firm Givins Pursley. Walker informed the Board that the attorney opinion does indicate allowing for the preservation of prime agricultural land in the first section. Walker stated the County never stopped allowing the splitting of agricultural land for agricultural purposes. Walker stated that if the County is at a point of change, a full scale change will have to be done. Walker stated removing the Original Parcel Rule would be contrary to the Comprehensive Plan.

Walker discussed wording used by the firm Givins Pursley and the interpretation of the code. Walker informed the Board that no one has had a problem with the interpretation of the code. Walker stated that landowners did not want to sell a portion of their property for someone to live on. They want to preserve it as a ranch or farm.

Marvin inquired how the Board would proceed if they decided to hire outside assistance.

Walker stated it would have to be budgeted for.

Haines stated he was on board to making adjustments and small changes to the code. Haines stated he was not in favor of opening the county up for development like Ada or Canyon County. Haines said the County is around 16-18% poverty rate. Ranching and farming are number one and two for our economy. If we lose ranching and farming, what does that do to our land, our economy and our workforce? Haines stated there are areas of the code that could be adjusted or changed. Haines informed the group that he did not believe that we need to “wholesale” the code and start over.

Walker stated the Commissioners need to be on the same page and if they decide to hire outside counsel, that would have to be done by resolution. Walker informed the Board that he is willing to assist with small changes. The letter from Smith of the firm Givins Pursley is asking to allow for open development on agricultural land.

Chandler stated that changing things is not going to take away farming and ranching any more than it has already been taken away because the people who are making a living by farming and ranching are not going to sell their property. Chandler indicated that the thought that property rights are dependent on whether or not your neighbor likes what you are doing is wrong. Chandler stated that to have an attorney review the suggested changes is a good idea. Chandler stated he could completely develop his ranch if he wanted; he just had to spend the money to do it. Chandler stated that the places that are being divided are those persons whom have decided to spend the money and divide the property. There are subdivisions in areas of the County that are not near services, with larger lots. Chandler stated that by changing code it would not encourage people to sell their ranches for development.

Haines and Walker inquired if persons can already go through the process, why does it need to be changed.

Chandler stated that it is dependent on whether or not your neighbor wants you to subdivide/develop the property.

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Haines discussed the Lancaster Rezone.

Chandler stated if the rezone was allowed it lets go of the focus to preserve Prime Ag land. He said the Comprehensive Plan and the Code are to preserve Prime Ag.

Haines stated the Comprehensive Plan and the Code give a way to allow development. We are not trying to stop development, but are trying to preserve as much Ag ground as possible while understanding that we have to grow. Once Ag ground is gone, we will never get it back.

Walker stated he believed the county was trying to follow code. The rezone was sent back to the Planning and Zoning Commission for them to take a second look at the provisions of the code that allow for a rezone. Walker stated he could assist with small changes to the code, but if the intent of the Board is to change to a "Development County" and do away with the focus of preservation of prime agricultural land, he would need help as that is not the focus of the Comprehensive Plan or the current code.

Chandler stated he is not looking to change from farming and Ag. Chandler is looking to make it not so expensive to buy a piece Ag ground and build a home on it.

Walker discussed the possibility of revising the subdivision ordinance. Walker reminded the Board that when the code was stated in the 1970's, property was zoned A1 unless it was otherwise developed. Each parcel was not evaluated. The code allows for re-evaluating specific pieces of property when needed or requested. Walker stated that he did not believe the code was broken. The code allows for transitional zoning with consideration and discretion of the Commission and the Board.

The Board agreed to send the areas of concern regarding the Lancaster Rezone back to the Planning and Zoning Commission for consideration.

Walker discussed the process to be followed regarding the Lancaster Rezone. Walker recommended that the Planning and Zoning Commission have the second hearing regarding the rezoning.

IN THE MATTER OF PROSECUTING ATTORNEY)

Delton Walker, Prosecuting Attorney, met with the Board.

Nate Marvin moved, seconded by Kirk Chandler to go into executive session at 10:37 a.m. in accordance with I.C. 74-206(1)(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 10:49 a.m.

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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. Smith reported the Ambulance District had thirty calls for service last week with eleven transfers and five public assists/refusals for care.

Order No. 21-22 for general expenses in the amount of \$3,041.53 was presented to the Board for review.

Smith stated he is working on a grant application for a command vehicle to be used for training as well as ALS (Advanced Life Support) response. Smith informed the Board that he is working on the narratives for the application. Smith requested that the Board draft a letter of support to include with the application.

Smith reported he is working on updating the computer system and maintenance is continuing on the station.

Lyndon Haines moved, seconded by Kirk Chandler to approve Order No. 21-22 for general expenses in the amount of \$3,041.53. 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.

Nate Marvin moved, seconded by Kirk Chandler to go into executive session at 11:01 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 11:12 a.m.

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Odoms informed the Board that the Asphalt Bid opening will begin next week. Odoms reported the Unity Bridge RFQ (Request for Quote) has been published. Odoms informed the Board that he has had interest in the project. Odoms reported blading is continuing. The mower is being repaired in order to begin road side mowing.

The group discussed the expected start date of April 26, 2021 for the work on Pine Creek Bridge. Odoms reported he had received a request for an oversized load to use county roads during the construction process. Marvin discussed paving at the fairgrounds. Planning for paving should be considered during the budget process.

IN THE MATTER OF PROPERTY TAX EXEMPTIONS)

Assessor, Debbie Moxley-Potter, met with the Board. Moxley-Potter reviewed with the Board the applications submitted to the Assessor's office for Agricultural Exemptions and property tax exemptions for the benevolent and religious organizations. Moxley-Potter discussed changes that had been made on the Weiser Golf Association and Weiser Valley Hospital applications. Moxley-Potter updated the Board on the exemptions allowed to AFC Finishing and Intrinsic Organics pursuant to 63-602NN.

Lyndon Haines moved, seconded by Kirk Chandler to allow the full exemption to the Weiser Golf Association for the portion of the restaurant. Motion carried.

Kirk Chandler moved, seconded by Lyndon Haines to approve the Property Tax Exemptions as presented on agricultural properties less than five acres, and charitable, benevolent properties. Motion carried.

Chandler left the meeting at 11:51 a.m.

IN THE MATTER OF WEISER SENIOR CENTER)

Karin Hoffer met with the Board. Also present was Barb Goff, Linda Smith, and Connie Lang.

Hoffer discussed funding received by the Senior Center. Hoffer informed the Board that the Center has re-opened. There was discussion of the need for a custodian and the difficulty in getting anyone to apply for the position. The group discussed qualifications for the Federal Funding through the American Recovery Plan.

Hoffer discussed the process for sanitation & maintenance that the Center is required to follow due to COVID-19.

Hoffer thanked the Board for their continued support and submitted the 2022 budget request to the Board for consideration.

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Motion by Nate Marvin, seconded by Lyndon Haines and unanimously carried to recess at 2:08 p.m. until April 26, 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.

UNAPPROVED