

June 6, 2022

The Board of County Commissioners of Washington County, Idaho, does hereby meet this 6th day of June, 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. Haines reported he attended the Southwest District Health Board meeting. He stated he will participate in the Southwest District Health Board budget hearing via zoom.

Nate Marvin reported he had attended the Area Agency on Aging meeting last week.

Kirk Chandler reported he attended the ICRMP training that was held at the Vendome.

Kirk Chandler moved, seconded by Nate Marvin to allow Lyndon Haines to sign the Idaho Rural Community Investment Fund Program documentation for the Pacific Fibre power upgrade. Motion carried unanimous.

Kirk Chandler moved, seconded by Lyndon Haines to approve the Operation in Funds/Statement of Treasurer's Cash for the month of April in the amount of \$14,401,005.70. Motion carried unanimous.

Lyndon Haines moved, seconded by Kirk Chandler to approve the payment of Election Worker Claims in the amount of \$9,906.47. Motion carried unanimous.

Lyndon Haines moved, seconded by Kirk Chandler to approve Retail Alcoholic Beverage License No. 29 for Li Liang Sun doing business as Li's Chinese Kitchen, 102 N. Superior Street, Cambridge, Idaho. Motion carried unanimous.

Kirk Chandler moved, seconded by Lyndon Haines to approve a Catering Permit for Ruszoni's Pizza submitted by Nick Reed to be used at Sunnyside Farms on June 16, 2022. Motion carried unanimous.

Lyndon Haines moved, seconded by Kirk Chandler, to approve a Catering Permit for Ruszoni's Pizza submitted by Nick Reed to be used at 1423 Larsen Road on June 25, 2022. Motion carried unanimous.

Kirk Chandler moved, seconded by Lyndon Haines to approve a demand warrant in the amount of \$400.00 payable to the Weiser High School Art Department. Motion carried unanimous.

Lyndon Haines moved, seconded by Nate Marvin to approve a demand warrant in the amount of \$14,000.00 payable to Weiser River Soil Conservation District. Motion carried unanimous.

Nate Marvin moved, seconded by Kirk Chandler to approve the 2023 budget request in the amount of \$14,000.00 for the Weiser River Soil Conservation District. Motion carried unanimous.

Lyndon Haines moved, seconded by Kirk Chandler to approve a Certificate of Residency for Caden Cramer. Motion carried unanimous.

IN THE MATTER OF MINUTES)

The minutes of the Board not heretofore approved of May 23, 2022 were approved as written.

IN THE MATTER OF ROAD & BRIDGE/SOLID WASTE)

Jerod Odoms, Road and Bridge/Solid Waste Supervisor, met with the Board. Odoms informed the Board that the monthly Safety meeting was held earlier today. He stated work is continuing on Goodrich Road and Cove Road.

Odom presented an Application for Placement of Culverts/Approaches to the Board for review.

Kirk Chandler moved, seconded by Lyndon Haines to approve the Application for Placement of Culverts/Approaches submitted by Brandon Ferrigno to be placed on North Crane Road. Motion carried unanimous.

Odoms discussed an Application for a Variance for a pipe on Mann Creek Road. Odoms stated he had reviewed the site. Odoms recommended approval of the Variance.

Kirk Chandler moved, seconded by Lyndon Haines to approve the Application for a Variance on Mann Creek Road submitted by 47 Ranch Holding, LLC. Motion carried unanimous.

Odoms informed the Board he received notification from the City of Weiser regarding a hearing on a section of the roadway on property that is in the impact area of the City of Weiser. Odoms requested permission to represent the County. The Commissioners agreed.

IN THE MATTER OF HISTORICAL PRESERVATION COMMISSION BUDGET CONTRIBUTION)

Tony Edmondson, representing the Washington County Historic Preservation Commission and Weiser Architectural Preservation Commission, met with the Board. Edmondson thanked the Board for continued support to the Historic Preservation Commission and Museums. Edmondson reviewed the preliminary Historic Preservation Plan with the Board.

Edmondson informed the Board funding received has assisted in grant matching funds for projects for the museums and Historical Preservation Commission. Edmondson also addressed the mitigation with Unity Bridge and the Commission's willingness to assist.

Edmondson thanked Information Technology Director, Robert Peterson, for the opportunity to hold monthly meetings at the Courthouse via zoom.

IN THE MATTER OF ELECTED OFFICIALS AND DEPARTMENT HEADS)

Donna Atwood, County Clerk, reported that her office will be conducting two recounts as a result of the Primary Election. As a result of scheduling the recounts with the Attorney General's office, Donna needs to move the Budget Workshops to Monday afternoon, June 13 and Tuesday morning, June 14.

Bonnie Davis, Weed and Rodent Control Departments, reported that it has been a challenging year. Weed Tour is Thursday. The Teacher Workshop was cancelled. The Weed Department is finishing the ITD contract and will move on to the BLM and Forest Service contract. The Weed Board meeting is Tuesday, June 14. There was discussion of a folding machine purchase for the Weed Department. The advertised seasonal position is still open.

Nate Marvin discussed submitting possible Tort Claims being filed timely with ICRMP.

The group discussed an Employee Appreciation BBQ to be held in September.

Sabrina Young, County Treasurer, reported that the second installment of 2021 tax collections are due by June 21. Collections are going well. She also reminded County credit card users need to sign the Credit Card policy.

Robert Peterson, Information Technology, stated that the WiFi upgrade will take place on Friday this week. He has scheduled the Idaho National Guard to review cyber security the week of June 13<sup>th</sup>.

Tony Buthman, Emergency Management, reported on the transition as Sam Edwards moves into the position. They will be touring the Office of Emergency Management. Tony closed the County cell phone. On June 15<sup>th</sup>, there will be a Cascadia Rising exercise at the Courthouse. Tony said someone needs to be designated for the

maintenance of AEDs and replacement of batteries in the hand sanitation units. Buthman suggested drafting a Memo of Understanding with the Ambulance District to provide maintenance on the AED units in the Courthouse and Annex Building. The fire extinguishers also need to be maintained. Marvin suggested that Buthman make a list of items that need to be assigned to someone else.

Debbie Moxley-Potter, County Assessor, said that assessment notices were mailed out last week. The appraisers will be beginning field inspections. Post cards reminders will be mailed to notify property owners that staff will be out assessing properties. The motor vehicles department has been extremely busy.

#### IN THE MATTER OF PROSECUTING ATTORNEY)

Delton Walker, Prosecuting Attorney, met with the Board. Walker presented a draft of a contract with Living In The News to be reviewed during the budgeting process. Walker stated he had meet with Brian Heller.

Nate Marvin moved, seconded by Lyndon Haines to go into executive session at 10:04 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 10:37 a.m.

#### IN THE MATTER OF PUBLIC HEARING- ANGEL HOMES LLC, BRIAN HELLER – REZONE REQUEST WITH DEVELOPMENT AGREEMENT)

Nate Marvin opened the hearing at 10:38 a.m. Marvin read the Notice of Hearing on the record.

Those present were Tony Edmondson, Delton Walker, Bonnie Brent, Mike Kaech, Dan Leuthold, Jerod Odoms, Gordon Wilkerson, Lisa Collini, Nancy Williams, Joe Kulp, Donna Lake, and Brian Heller.

Brian Heller, 240 W. Main Street, Weiser, addressed the Board. He requested rezone from A1 to C1 to create a rustic theme village. He said that he was told by the Commissioners to present his development agreement. Heller stated the process has been very confusing. The documentation says that if the Board requests an agreement, the applicant should be able to work with Planning and Zoning. He stated the agreement drafted by Planning and Zoning contained more “legal-eez”. He had asked for some changes to be made. He stated it was a very one-sided agreement. Heller stated he wants options, but if the proposed development should fail, he wants the opportunity to do something else with the property. He said that his property is along the highway and is

adjoining other commercial property. He is requesting to edit and revise, and also suggested the Board review the Comprehensive Plan. Heller stated he is creating business opportunities.

Marvin invited anyone to speak who is opposed to the development agreement.

Joe Kulp, Midvale, addressed the Board. Kulp stated that if Mr. Heller is allowed to have agricultural land rezoned to commercial, anyone who owns property within 500 feet of Highway 95 should be allowed to do the same. He said it is like Lancaster who was allowed 7 splits and no one else was allowed. It needs to be fair.

Donna Lake, Midvale, stated there should have been a Finding of Facts stating why a development agreement was needed. She wonders what problems were stated by Planning and Zoning that could help Mr. Heller with the development agreement.

Debra Ratcliff addressed the Board. She stated they have adjoining property. She feels that there should many stipulations that Mr. Heller has to follow, and if he does not follow the development agreement, the property should go back to agricultural.

Marvin invited anyone to speak who is neutral to the development agreement.

Dan Leuthold, Midvale, asked for clarification.

Delton Walker said that County Code 5-11-1 through 15 allows for development agreement on projects. Walker stated Heller is opposed to the development agreement presented by the County and wants to make changes.

Heller stated that Planning and Zoning rejected his plan. He said that most of what he wants to do with the property could be done with the A1 guidelines. It was his request to change the zoning to commercial. The Planning and Zoning had mentioned a development agreement. Mr. Heller stated that Haines had requested a development agreement.

Delton Walker said that a development agreement has been proposed by the County and Mr. Heller. Walker stated that Mr. Heller opposes the County's development agreement.

Leuthold stated it does not sound fair. Lyndon Haines asked Mr. Leuthold if he had read the County's development agreement. Mr. Leuthold said that he had not and did not know where to get it.

Walker said that all the meetings had be advertised and had been discussed in open meetings.

Lyndon Haines stated that the Commissioners were under the impression that Heller wanted the process to go as quickly as possible. Statutorily, the Commissioners have to advertise the hearings.

Heller said that there has been little or no work by the Administrator or Prosecuting Attorney other than what he has brought forth.

Marvin invited anyone to speak who is in favor of the development agreement that was drafted by Planning and Zoning.

Mike Kaech, Midvale, addressed the Board. He said that he is not in favor. He cannot understand how people can work in an environment like this.

Nancy Williams addressed the Board. She stated she is in favor of this. She is concerned with the impact this will have on Weiser as a whole. She would like to see businesses come in. She stated she felt this kind of business would fit the area. She stated she thought it would help the traffic congestion in the subject area during the annual sales at Second Chance.

Heller re-addressed the Board. He said that the County's development agreement process states there is supposed to be assistance. He stated that the Comprehensive Plan supports exactly the kind of business that he is proposing. He wondered if they should make alterations to the proposed development agreement, throw out the proposed development agreement or work with the one that he has drafted which is a "basic outline" of what his plan is. Heller is asking for a zoning change from A1 to C1. The county is asking that if the development fails, the property would go back to A1. He said that if he puts a tremendous amount of infrastructure into the property and someone disagrees with what he is doing, it could be sent back to A1.

Mr. Heller suggested that the minutes are different than the audio recordings both in Planning and Zoning and Commissioner meetings.

Heller discussed the condition of the road. He suggested the County share the cost of repairs to the road. Mr. Heller said that he requested that the County must apply for a GEM Grant through the Idaho Economic Development to bring infrastructure to his property.

Marvin stated the hearing closed at 11:06 a.m.

Chandler said it was his understanding that the Board had approved the zone change.

Marvin stated it was contingent on the development agreement.

Chandler stated he understood that the development agreement was to protect the property rights of Mr. Heller and the property rights of those around Mr. Heller's property. Chandler said he felt that the County had not provided a finished copy of the development agreement so that the public could see it.

Lyndon read a portion of the development agreement on the record. He stated he did not feel that was unreasonable to ask. He reminded Mr. Heller that he could have done this project as a special use under A1 but he wanted it rezoned commercial to obtain financing.

Mr. Heller said that the development agreement is a broad agreement. Haines stated the County wants Mr. Heller to follow the plan as presented. County Code does not allow Heller to create the development agreement.

Heller said that he edited the agreement to make it more fair.

Haines stated the Board has reviewed the edits presented by Heller. The Board received the agreement via email last week.

Heller pointed out his edits to the proposed County development agreement. He said that the County should aid development and small business by applying for grants. Haines said that the County would help by writing letters of support but would not apply for the grants.

Walker stated that the development agreement is straight out of County Code 5-11-9 which states the County will specify what is in the agreement. Heller does not like what the County is willing to do so he needs to lobby for a change to County Code or he needs to work with Bonnie on a "middle ground". His proposal is not in any of the approved categories of what is allowed in C1 so that is why a development agreement is needed.

Heller said he only asked for the County to pay half on the repairs to the roads. Per Jerod, the road is overdue for an impact study and that approximately 150 cars per day use the road. Heller asked why should he be responsible for the cost of an impact study and any repairs. Haines clarified that Heller would only be responsible for the portion of the road in front of his property. If at a later date he wants to convert the property to another use within C1, he wants that flexibility within the agreement.

Walker pointed to County Code 5-11-6c that the County would have to have a hearing to modify a previously approved development agreement. If this proposal was a permitted use, this would not be an issue. Idaho Code 67-6509 allows for the public to comment if the use changes.

Heller stated that the Code says that the zoning administrator is to work with the applicant. He complained that no one is working with him. He said that his attorney told him that he wouldn't sign it. Heller stated he had to research and do the edits himself. He feels that he is not getting assistance.

Lyndon asked if Bonnie and Delton had met with Heller. Walker stated Heller needs to work on a development agreement that is agreeable. He said that they are still in a "working phase".

Chandler said that it is a problem with the understanding of County Code and different interpretations. He said that the agreement should be under the issues of “health, safety and welfare”. Chandler stated that the County needs to protect property rights. Delton said that the Code is clear. Delton said the County Code 5-11-5 gives the content of a development agreement.

Bonnie said the agreement that she drafted was discussed in the Commissioner meeting and the agreement is based on Code.

Delton pointed to County Code 5-11-9 that the property’s zoning may be reversed upon on the failure to fulfill the development agreement. Heller said that this is a crossover of a land development and a zone request. He is requesting a zone change.

Marvin said that they approved a zone change with a development agreement.

Walker asked if Mr. Heller’s attorney had read the Code. Heller said that he had not.

Chandler discussed the interpretation of the code.

Marvin recommended Heller meet with Bonnie, Delton, and his attorney. Another hearing will have to be held. The hearing was held on the agreement that Bonnie drafted otherwise another public hearing will be required.

Chandler said how we can stand on County Code that is wrong. Marvin asked who said the Code is wrong.

Marvin told Heller to meet with Walker and Brent to drafting a revised agreement.

IN THE MATTER OF PLANNING AND ZONING)

Bonnie Brent, Planning and Zoning Administrator, met with the Board.

Brent presented an agreement with Daniel Leuthold.

Chandler asked why a permit was required. He stated there was an existing home on the subject property.

Brent stated the residence is within 1000 feet of an existing CAFO. Brent stated this agreement is protection to the owner of the CAFO. Chandler asked if the CAFO is actually a CAFO. Brent stated that the CAFO is inspected by the State so it is a CAFO. Brent said that the Code says that a non-conforming use has to come up to current code. This is putting a new house within 1000 feet of a CAFO.

Chandler inquired if the property was an original parcel. Brent said the property is an original parcel split.



Walker stated he did not see a problem with the agreement.

Daniel Leuthold addressed the Board. He stated he did not feel he needed to sign the agreement but he is trying to be a good neighbor.

Lyndon Haines moved, seconded by Kirk Chandler to approve the agreement between Daniel Leuthold and Washington County. Motion carried unanimous.

IN THE MATTER OF AMBULANCE)

Tony Buthman and Luke Smith spoke to the Commissioners about initiating a Memorandum of Understanding between the County and the Ambulance District for the AEDs in County buildings. The Commissioners told them write an agreement to present.

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; Nate Marvin, present.

Luke Smith, Ambulance District Director, met with the Board. Order No. 22-32 for general expenses in the amount of \$4,618.57 and Order No. 22-0018 for payroll expenses in the amount of \$23,042.31 was presented to the Board for review.

Smith reported the Ambulance District had 34 calls for service last week, including 14 transfers and 7 public assists/refusals for care.

Smith discussed the need for Protocols and Guidelines for Standard of Care to be adopted by the District. Smith discussed the cost that may be incurred.

Smith informed the Board he will be out of town next week.

Lyndon Haines moved, seconded by Kirk Chandler to approve Order No. 22-0018 for payroll claims in the amount of \$23,042.31. Motion carried.

Lyndon Haines moved, seconded by Kirk Chandler to approve Order No. 22-32 for general expenses in the amount of \$4,618.57. Motion carried.

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; Nate Marvin, present.

IN THE MATTER OF FOREST SERVICE UPDATE)

Jeff Jones met with the Board. The 2022 motor vehicle use maps are now available at the office. He stated seasonal positions have not been filled. Trail maintenance may suffer. They have been able to conduct less than 200 acres of prescribed burns in the Mann Creek area before the rains began.

Motion by Nate Marvin, seconded by Lyndon Haines and unanimously carried to recess at 12:02 p.m. until June 13, 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.