

January 13, 2020

The Board of County Commissioners of Washington County, Idaho, does hereby meet this 13th day of January, 2020.

IN THE MATTER OF ROLL CALL)

Donna Atwood, Clerk, called roll call: Lisa Collini, present; Kirk Chandler, absent; and Nate Marvin, present.

Nate Marvin opened the meeting and Donna Atwood 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.

IN THE MATTER OF MINUTES)

The minutes of the Board not heretofore approved of January 6, 2020 were approved as written.

IN THE MATTER OF LIQUOR LICENSE)

Nate Marvin moved to approve Liquor License No. 27 for Judy Sterling doing business as Judy's Weiser In. The motion was seconded by Lisa Collini with all in favor.

IN THE MATTER OF RESOLUTIONS)

Nate Marvin moved to adopt Resolution No. 2020-02 reducing the mileage reimbursement rate from .58 per mile to .575 per mile effective January 1, 2020. The motion was seconded by Lisa Collini with all in favor.

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 \$153,724.05 for general expenses by a motion of Nate Marvin, seconded by Lisa Collini. Motion carried.

The Auditor was authorized to issue warrants totaling \$605.00 for social services expenses by a motion of Nate Marvin, seconded by Lisa Collini. Motion carried.

IN THE MATTER OF COUNTY EXTENSION)

Mary Ridout, Extension Educator, met with the Board.

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Ridout discussed the progress of the remodel of the Extension Office. Ridout reported most of the work has been completed. There was discussion of moving expenses. Ridout informed the Board that Rob Huff has offered to help with the move. Huff would supply a trailer. Ridout requested permission to pay the moving expenses from the building rental line of the County Agent budget as the office will no longer have need of rental funds after the move.

Lisa Collini moved to approve the use of funds from the rental line to cover moving expenses for the Extension Office. The motion was seconded by Nate Marvin with all in favor.

Ridout requested permission to close the office for one week to allow staff to unpack and organize the new office. Ridout informed the Board the Extension Office would post notice when the office will be closed and when an Open House would be held.

The Board approved the request to close the office for one week.

There was discussion regarding the windows that were installed at the Extension Office. The incorrect windows were installed. The Board approved to have the correct windows installed on a priority basis.

IN THE MATTER OF EMERGENCY MANAGEMENT)

Tony Buthman, Emergency Manager, met with the Board. Also present was Clarence Stark.

Buthman reported the Weiser River Basin is currently at 86% of normal snow pack.

Buthman informed the Board he attended the Waterways Board meeting and is helping develop projects.

Buthman reported the Hazard Mitigation Plan has been forwarded to FEMA for final review.

Buthman discussed the Community Wildfire Protection Plan with the Board.

Buthman informed the Board of meetings and trainings he has attended in the past month.

Buthman discussed repairs needed on the Emergency Management vehicle with the Board.

The Board instructed Buthman to report back if the repairs are over \$1,500.00.

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Buthman informed the Board there is \$2,251.00 in remaining grant funds from the 2018 SHSP Grant. Buthman requested permission to purchase a Honda 5000 Watt portable generator in the amount of \$2,339.95 from Pro Rentals in Ontario, Oregon.

Nate Marvin moved to allow Buthman to purchase the generator to be used for Emergency Operations. The motion was seconded by Lisa Collini with all in favor.

IN THE MATTER OF PLANNING AND ZONING)

Bonnie Brent, Planning and Zoning Administrator, met with the Board. Also present were Clarence Stark, Jeri Soulier and Mary Sue Roach.

Brent presented the proposed Contract for Services from Idaho Building Inspection Services to the Board.

Brent discussed permit fees presented by the contractor with the Board. The proposed fees would be an approximate 54% increase to the homeowner/builder. The cost of Plan Reviews was discussed. Brent will research the fee schedule further.

Brent reported there will be a Planning and Zoning Commission Meeting to review the proposed land use map and the Comprehensive Plan Tuesday, January 14, 2020. The map will reflect proposed areas for growth.

IN THE MATTER OF PROSECUTING ATTORNEY)

Delton Walker, Prosecuting Attorney, met with the Board. Members of the public present were Clarence Stark, Jeri Soulier, and Mary Sue Roach.

Walker presented Resolution No. 2020-01 regarding records destruction to the Board for review.

Nate Marvin moved to approve Resolution 2020-01 regarding Destruction of County Records. The motion was seconded by Lisa Collini with all in favor.

Walker inquired as to the status of hiring an assistant for the Planning and Zoning Office.

Walker discussed purchasing new iPads for himself and Deputy Prosecutor Wheeler.

Nate Marvin moved to approve the purchase of two new iPads for the Prosecutors Office. The motion was seconded by Lisa Collini with all in favor. Walker will trade the old iPads in when purchasing the new iPads.

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Walker reviewed the process to be followed in a Name Clearing Hearing with the Board.

Marvin discussed the installation of the windows at the Extension Office. Marvin explained the issue to Walker and the Boards intent moving forward.

IN THE MATTER OF PROPERTY TAX EXEMPTION FOR CO-OPPORTUNITIES, INC)

Dennis and Sandy Cooper met with the Board.

Dennis Cooper presented documentation regarding 501(c) (3) Federal Tax Exemption status for Co-Opportunities, Inc. to the Board. Cooper informed the Board the organization was formed for education and charitable purposes. Cooper reviewed the requirements of being a non-profit organization.

Cooper requested tax exempt status for the property located at 8 East Idaho, 30 East Idaho and 32 East Idaho, Weiser Idaho.

Washington County Assessor, Debbie Moxley informed the Board a decision will have to be made by May 15, 2020. Moxley stated the Assessors Office will need to have a Financial Statement from Co-Opportunities, Inc.

Sandy Cooper addressed the Board. Activities that will be held at Co-Opportunities were discussed. Cooper discussed materials that will be made available to the public. Events and performances that will be held, as well as Conversation Spanish classes.

Moxley inquired if scholarships will be offered.

Cooper stated scholarships will be available and that the classes will be held at no cost. Cooper stated the purpose is not to compete with local businesses.

Marvin stated the Board will take the information provided under advisement and will make a decision at a later date.

IN THE MATTER OF NAME CLEARING HEARING)

Nate Marvin opened the hearing at 11:04 a.m.

Chad Brock and Legal Counsel, Kelsey Gooden, met with the Board. Also present were Clarence Stark, Mary Sue Roach, Jeri Soulier, Dennis Cooper, Sandy Cooper, Cathy Kaech, Mike Kaech, Lyndon Haines, Malia Bumgarner, Sabrina Young, Calvin Hickey and Darin Braun.

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Marvin read Section 5 E, No.1 from the Washington County Personnel Handbook on the record as follows:

All employees are At-Will employees. However, at-will employees may from time to time experience adverse consequences of unlawful discrimination or retaliation. In addition, a public employee who is being demoted with a reduction in pay or terminated from employment based upon allegations of dishonesty, immorality or criminal misconduct is constitutionally entitled to a name-clearing hearing when one is requested.

Gooden addressed the Board and stated she was representing Mr. Brock.

Gooden requested clarification that Commissioner Chandler had recused himself from decisions to be made in the case.

The Board stated they were unaware if Chandler had recused himself.

Marvin stated Chandler is traveling for two weeks and unable to attend.

Gooden stated since Chandler had terminated Mr. Brock, they feel he is incapable of being impartial, which could be grounds for an appeal to the District Court.

Gooden stated Brock had been the Planning and Zoning Administrator or Building Inspector for what would have been fourteen years in March. Commissioner Chandler repeatedly asked Brock to ignore or violate zoning regulations that Chandler found inconvenient to his purposes. Gooden stated this is against Idaho law per *Jasso v. Camas County*. A 2011 decision from the Idaho Supreme Court case.

Gooden continued stating when Brock refused to violate the ordinances and rules he was hired to uphold, he was terminated by Commissioner Chandler. There was no process as outlined in the Washington County Personnel Handbook as a way to encourage improved performance. Gooden stated Brock was not offered any disciplinary action in lieu of termination.

Gooden stated the facts indicate there is an obvious personality conflict between Chandler and Brock. Termination for a personality conflict is not actionable, but the most important thing here is the fact that Brock was asked to ignore the zoning regulations and upon refusal to do so, was wrongfully terminated.

Gooden said it is true that one can be terminated at-will as previously read from the handbook but, Idaho law has several long standing exceptions to the at-will employment law. Relevant in this case is the exception for wrongful termination in violation of public policy as outlined in the case of *Venable v. Internet Auto Rent and Sales*. *Venable v. Internet Auto Rent and Sales* specifically states termination of an individual motivated by his refusal to engage in unethical or illegal conduct constitutes a wrongful discharge.

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Gooden stated Commissioner Chandlers conduct was unethical, willful and intentional. Gooden informed the Board they have at least one recorded conversation where Commissioner Chandler clearly stated he disapproves of the zoning regulations. Gooden stated other people have come forward saying they have witnessed Chandler's unethical behavior.

Gooden continued saying there has been "public backlash" in regard to Brock's termination. She told the Board her office has been contacted with offers of support should this matter go to the District Court.

An appropriate resolution in cases like this usually involves damages including back pay, front pay, potentially punitive damages. Gooden told the Board Brock is willing, in the interest of not going to court, to settle for one year's salary plus benefits as a sort of severance package. Gooden stated, not only did Brock lose his salary due to his refusal to engage in illegal behavior, he was also only one and one half year away from retirement. Brock lost his service credit for retirement when terminated.

Gooden inquired when the Board anticipates making a decision.

Marvin stated he could not give a date for a decision at this time.

Hearing closed at 11:11 a.m.

IN THE MATTER OF LUNCH)

Nate Marvin moved, seconded by Lisa Collini to recess for lunch at 11:16 a.m. Motion carried.

IN THE MATTER OF ROAD & BRIDGE/SOLID WASTE)

Jerod Odoms, Road & Bridge/Solid Waste Supervisor, met with the Board. Also present was Ambulance District Administrative Advisor, Tim Atwood, and Lyndon Haines.

Odoms discussed adding a drug testing requirement to the Vehicle Use Policy in the event of an accident with the Board.

Odoms presented an Application for Placement of Culverts to the Board.

Nate Marvin moved to approve the Application for Placement of Culverts for Darin Sutton to be installed on Farm to Market Road and Widner Road. The motion was seconded by Lisa Collini with all in favor.

Odoms updated the Board on the purchase of the dump-truck bed and the status of the claim on the trailer that was damaged in the fire at the Solid Waste Site.

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IN THE MATTER OF AMBULANCE)

Nate Marvin moved, seconded by Lisa Collini 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: Lisa Collini, present; Kirk Chandler, absent; and Nate Marvin, present.

Corey Patocka with the Ambulance District met with the Board. Also present was Ambulance District Administrative Advisor, Tim Atwood.

Patocka reported the Ambulance District had nineteen calls for service and eight transfers last week.

Atwood asked if the Board was interested into inquiring about a lease/purchase on the new ambulance. If so, Atwood would look into it. Marvin requested Atwood to check on the possibility of a lease/purchase. Atwood stated that he would have the information next week.

Atwood reported on the first joint call between the Ambulance District and the Weiser Rural Fire Department. Patocka and Atwood both indicated that it went well.

Atwood informed the Board there are many houses that do not have visible address numbers. There was a discussion about possible solutions.

Nate Marvin moved, seconded by Lisa Collini to approve Order No. 20-14 for general expenses in the amount of \$2,163.05. Motion carried.

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

Debbie Warren, Deputy Clerk, called roll call: Lisa Collini, present; Kirk Chandler, absent; and Nate Marvin, present.

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Motion by Nate Marvin, seconded by Lisa Collini and unanimously carried to recess at 1:46 p.m. until January 21, 2020 at 8:45 a.m.

Chairman, Board of County Commissioners

ATTEST:

Clerk

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