

February 6, 2023

The Board of County Commissioners of Washington County, Idaho, does hereby meet this 6th day of February 2023.

IN THE MATTER OF ROLL CALL)

Donna Atwood, Clerk, called roll call: Gordon Wilkerson, present; Lyndon Haines, present; and Nate Marvin, present.

Lyndon Haines opened the meeting and Nate Marvin led the Pledge of Allegiance. Gordon Wilkerson 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 emails from Cathy Kaech and Carolyn Kiesz regarding the Oath of Office, a request for funding from the Weiser Senior Center, and a January 20, 2023 letter from the Board of Community Guardians Chairman, Steve Penner, stating that Cathy Pursifull resigned from the Board of Community Guardians.

Nate Marvin moved, seconded by Gordon Wilkerson to appoint Karin Hoffer to the Board of Community Guardians to complete a term expiring June 13, 2023.

Nate Marvin moved, seconded by Gordon Wilkerson to approve a demand warrant payable to the Washington County Sheriff's Department in the amount of \$1,000.00. Motion carried.

Gordon Wilkerson moved, seconded by Nate Marvin to approve a demand warrant payable to K Hardware in the amount of \$88.17. Motion carried.

Nate Marvin moved, seconded by Gordon Wilkerson to approve a demand warrant payable to JLC 4, LLC in the amount of \$99.05 for juror meals. Motion carried.

Lyndon Haines moved, seconded by Gordon Wilkerson to approve a Certificate of Residency for Morgan Gibbons. Motion carried.

Lyndon Haines moved, seconded by Gordon Wilkerson to approve a Certificate of Residency for Emily Larsen. Motion carried.

Nate Marvin moved, seconded by Gordon Wilkerson to approve duplicate warrants payable to Weiser Irrigation District in the amount of \$293.45; East Weiser Irrigation District in the amount of \$50.48; Smith Hemenway Lateral in the amount of \$148.01; Grimmitt Lateral Irrigation in the amount of \$354.54; ATC Middle Weiser in the amount of \$69.87; and Mill Lateral in the amount of \$88.90 due to original warrants being lost. Motion carried.

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Lyndon Haines moved, seconded by Gordon Wilkerson to approve the December 2022 Operation in Funds/Statement of Treasurer's Cash in the amount of \$15,834,251.88. Motion carried.

Gordon Wilkerson moved, seconded by Nate Marvin to approve the Quarterly Operation in Funds/Statement of Treasurer's Cash for the period of October 1, 2022, through December 31, 2022, in the amount of \$15,834,251.88. Motion Carried.

Nate Marvin informed the group that he will re-take the Oath of Office. Gordon Wilkerson stated he would like to re-take the Oath as well.

Lyndon Haines stated he has not re-taken the Oath because it is neither illegal nor legal. Haines stated, "If the previous oath we took was illegal, then every commissioner from 2007 moving forward, including a couple in this room right now did not hold office. Their oath was illegal. Knowledge of the law does not change whether the law is there or not, so I asked a couple different attorneys, a couple other commissioners and a couple other people and the oath I took was not illegal. The oath I took two years ago, so I am not taking a different oath because the oath I took was legal. If it is not legal, I will gladly re-take it and then we will go back and have to look at every Ordinance passed by the previous commissioners, have public hearings and change those Ordinances because they took illegal oaths."

Nate Marvin moved, seconded by Gordon Wilkerson to approve the Ballot Order for 2,925 ballots for the March 2023 Consolidate Election. Motion carried.

IN THE MATTER OF MINUTES)

The minutes of the Board not heretofore approved of January 23, 2023, 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 presented an Application for Placement of Cattleguards submitted by Frank Schwartz to be placed on Advent Gulch Road to the Board for review.

Nate Marvin moved, seconded by Gordon Wilkerson to approve the Application for Placement of Cattleguards submitted by Frank Schwartz to be placed on Advent Gulch Road. Motion carried.

Odoms discussed a quote from White Cloud Communications for a repeater, antenna, cable, and Installation in the amount \$5,807.50 at the Jenkins Creek Repeater site.

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Nate Marvin moved, seconded by Gordon Wilkerson, to approve the request to purchase the Static Repeater and from White Cloud Communications not to exceed \$5,807.50. Motion carried.

Nate Marvin moved, seconded by Gordon Wilkerson, to approve the purchase of up to 6 mobile radios at \$346.50, \$150.00 installation and \$65.00 for antenna kits each for Road & Bridge Vehicles. Motion carried.

If the equipment qualifies, it will be purchased from ARPA (American Rescue Plan Act) funding.

Odoms discussed the US Forest Service De-Obligation and Closeout Request Form regarding road maintenance with the Board.

Nate Marvin moved, seconded by Gordon Wilkerson, to allow the Chairman to sign the US Forest Service De-Obligation and Closeout Request Form. Haines signed the form.

Odoms discussed the Agreement with Keller and Associates regarding the Transportation Plan and Federal Funding with the Board. Odoms informed the Board approximately \$30,000.00 was cut from the Agreement.

Marvin stated he believed the additional \$11,000.00 from the Road and Bridge budget should be included in the Agreement.

Odoms discussed items to be covered in the Agreement with the Board.

Nate Marvin moved, seconded by Gordon Wilkerson to approve the Engineering Agreement between Washington County and Keller Associates. Motion carried.

Odoms provided an update to the Board on classes, training, and work to be conducted by the department.

#### IN THE MATTER OF ELECTED OFFICIALS)

Bonnie Davis presented a demand warrant payable to Campbell Tractor for the replacement Gator in the amount of \$23,220.00.

Nate Marvin moved, seconded by Gordon Wilkerson, to approve the demand warrant payable to Campbell Tractor for the replacement Gator in the amount of \$23,220.00. Motion carried.

Davis provided a department update to the Board. Davis stated the re-certification class will be held February 16<sup>th</sup> at the Exhibit Hall in Cambridge.

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Nate Marvin complimented Davis on a job well done per a presentation at the Midwinter Conference with the CWMA (Cooperative Weed Management Area) program.

Treasurer, Sabrina Young, provided an office update regarding Warrants of Distrain for delinquent personal property and mobile homes. The office is still working on pending issues for Tax Deed.

Sheriff, Matt Thomas, stated that the vehicles that were ordered last year have been delivered. Light and upfitting will be done as time and equipment is available. Thomas stated the vendor can only equip one vehicle per month.

Assessor, Debbie Moxley-Potter, reported the office is working on ratio studies. Questionnaires have been sent out to property owners regarding Ag exemptions. Moxley-Potter informed the Board that there were three bills introduced in the House last week regarding property tax reduction. Moxley-Potter will provide updates as the session moves forward. Moxley-Potter informed the Board the Ag Manual is updated annually based on information provided on the questionnaires. Moxley-Potter stated that the Assessors Association presented a bill to increase the portion the County receives for Title work completed by the Department of Motor Vehicle Offices. The County currently receives \$3.00 of the \$14.00 that is charged. There was continued discussion of proposed legislation regarding property tax relief.

Young discussed the property tax referral program with the Board.

Juvenile Probation Supervisor, Dahlia Stender, addressed the Board and provided a department update. Stender stated she plans to hire an administrative assistant in March. Stender discussed State Funding received by Juvenile Probation with the Board. Stender stated that funding has remained steady over the past several years. House Bill 500 regarding supervision fees from the 2022 session was discussed.

Robert Peterson presented an overview of the Graymail program to the group.

Clerk, Donna Atwood, encouraged everyone to participate in the IAC (Idaho Association of Counties) Legislative updates during the legislative session. Atwood presented a quote from Engineer Supply for the purchase of a waterproof cabinet used to store plats and surveys in the amount of \$4,896.99 to the Board for approval.

Nate Marvin moved, seconded by Gordon Wilkerson, to approve the purchase of a Safeco Planfile Masterfile cabinet for the purpose of storing recorded plats and surveys in the amount of \$4,896.99. Motion carried.

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IN THE MATTER OF PROSECUTING ATTORNEY)

Prosecuting Attorney, Delton Walker, met with the Board. Walker discussed items on the agenda. Walker informed the Board that they are welcome to take comments from the public regarding the Ag building proposed changes during today's meeting, but it is not required. Walker discussed the Open Meeting Law and read the following: "Does the Open Meeting Law require the governing body of a public agency to accept public comments and testimony during meetings." "No, while other statutes, such as the Local Planning Act, may require the solicitation of public comments, the Open Meeting Law does not expressly require the opportunity for public comment." Walker stated statements are not required to be read into the record.

Walker discussed the roles of Commissioners: Legislative where the Board may change laws and County Code such as Oil and Gas, and Quasi-Judicial such as Planning and Zoning issues or Land Use Planning. Walker stated that the Board should refrain from talking with the general public regarding Planning and Zoning and Land Use Planning matters. Those matters should be addressed in open session. Legislative matters can be discussed with the general public. Walker stated the proposed Ag Building changes that are being proposed are a legislative matter. The differences of a meeting and public hearing were discussed.

CJ Barnet requested that Denney Road be abandoned as a County Road.

Haines stated he had spoken with Lawrence Denny regarding the abandonment who stated he would be fine with abandoning Denney Road as a County Road.

Walker discussed the process of abandoning a roadway per Idaho Code. Walker stated a hearing would have to be held before deciding to abandon a road.

Wilkerson discussed Idaho Statute 67-6529 which reads: "No power granted hereby shall be construed to empower a board of county commissioners to enact any ordinance or resolution which deprives any owner of full and complete use of agricultural land for production of any agricultural product. Wilkerson also read a portion of Idaho Statute 39-4116 (5) "Local governments shall exempt agricultural buildings from the requirements of the codes enumerated in this chapter and the rules promulgated by the board. A county may issue permits for farm buildings to assure compliance with road setbacks and utility easements,". Wilkerson inquired if there was a reason to abandon Denney Road.

Walker stated that if it were a public right-of-way the process is to abandon the road if that were the will of the Board.

Wilkerson inquired how the County has the power to place a setback on an agricultural use.

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Walker stated it is in 39-4116 that the “county may issue permits for farm buildings to assure compliance with road setbacks...”

Walker stated the building could be moved or the road could be abandoned. These matters are complaint driven. This assumes that the area in question is a public right-of-way.

Marvin stated that when the County had held a Road Abandonment Hearing there was testimony from people that were not in favor of abandoning Denney Road.

Lyndon Haines moved, seconded by Gordon Wilkerson to go into executive session at 10:27 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, and I.C. 74-206(1) (c) to conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency. Motion carried unanimous. Gordon Wilkerson, Aye; Lyndon Haines, Aye; Nate Marvin, Aye.

Lyndon Haines stated they were out of executive session at 10:41 a.m.

IN THE MATTER OF PLANNING AND ZONING)

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

Haines inquired if the Board had received a copy of the changes made to the proposed Ag Building Permit. Copies were also available for the public. Haines stated that changes can be made until the notice is published.

Wilkerson requested the time for the public hearing be changed.

Marvin stated he disagreed with changing the time due to added expense to the County.

Walker stated written comment will be accepted prior to the hearing.

The Board agreed to set the hearing time at 3:00 p.m. March 6, 2023 at the Vendome.

Brent stated that the contract with the Vendome will need to be signed by a member of the Board.

The Board reviewed changes to the proposal. Definitions were discussed.

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Wilkerson stated an Ag Shop by definition should be an Ag Building with the liberty of having a sink, an office, bathroom with a shower.

Brent stated she did not believe that was the intent of the code which says “house”. Brent read a portion the definition of house on record as follows: “ to put or receive into a house, dwelling, or living quarters, to give shelter to, harbor, lodge. It is stating buildings built to house farm implements, hay, grain, poultry, livestock or other horticultural products.”

Wilkerson inquired why the county could not accept an Ag Shop as an Ag Building.

Haines stated he was not opposed to that but stated the problem in the past was that people have “passed off as an ag building and ended up living in it.”

Haines read a portion of State Code that has been added to the proposal on the record as follows: “located on agricultural zoned property of five acres or more upon which the owner or occupant derives his principal income and livelihood from the growing or raising of...” Haines stated he believed that an addition to the proposal was important. Haines stated that the goal is to make sure an Ag Building does not get put in the right of way or too close to a property line. Haines further stated that the proposal also stated that engineered plans are not required.

Marvin discussed paragraph B of the proposal submitted by Brent to the Board for review. Brent stated that was proposed changes.

Haines stated that the intent was to give the benefit to people who make their living in agriculture, not for someone who does not make their living in agriculture but wants to build their shop cheap. Ag is the foundation of our county, and we want to protect it. This is to protect those who make their living from agriculture.

Brent stated that corrals and fences are an Ag exception per State Code. It does not say a person would need a permit for a corral.

Marvin stated that shops shall not be a place of human habitation and should remain in the proposed language.

Walker stated the exemptions are under 39-4116 “Building Code Act” 39-4116. Local governments can adopt and enforce building codes.

Wilkerson questioned code enforcement.

Violations language was discussed. If changed it would involve the entire code.

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Walker stated the primary goal is to make clear what an Agricultural Building is and what buildings are exempt from the Building Code.

Brent discussed the language in the code and requested parameters be added for Planning and Zoning to follow when approving applications.

IN THE MATTER OF AMBULANCE)

Lyndon Haines moved, seconded by Gordon Wilkerson 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: Gordon Wilkerson, present; Lyndon Haines, present; and Nate Marvin, present.

Christy Maldonado with the Ambulance District met with the Board. Order No. 23-16 for general expenses in the amount of \$335.39, Order No. 23-17 for general expenses in the amount of \$26,098.29 and Order No. 0009 for payroll expenses in the amount of \$26,102.26 was presented to the Board for review.

Maldonado reported the Ambulance District had thirty-four calls for service over the last two weeks which included ten transfers and ten public assists/refusals for care.

Nate Marvin moved, seconded by Lyndon Haines to approve Order No. 23-0009 for payroll expenses in the amount of \$26,102.26. Motion carried.

Nate Marvin moved, seconded by Gordon Wilkerson to approve Order No. 23-16 for general expenses in the amount of \$335.39 Motion carried.

Nate Marvin moved, seconded by Lyndon Haines to approve Order No. 23-17 for payroll expenses in the amount of \$26,098.29. Motion carried.

Lyndon Haines moved, seconded by Gordon Wilkerson to go into executive session at 11:18 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. Gordon Wilkerson, Aye; Lyndon Haines, Aye; Nate Marvin, Aye.

Lyndon Haines stated they were out of executive session at 11:22 a.m.



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Lyndon Haines moved, seconded by Nate Marvin 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: Gordon Wilkerson, present; Lyndon Haines, present; and Nate Marvin, present.

IN THE MATTER AG BUILDING CHANGES)

Tim Bumgarner met with the Board. Bumgarner stated most of his questions were answered during the Planning and Zoning portion of the meeting earlier today. Bumgarner stated he would like to broaden the Boards views on use of a shop. Bumgarner discussed persons claiming an Ag Building when in the end they are living in the shop.

Haines reiterated that the primary goal is to benefit those who make a living from agriculture. Haines stated the intent is not to be heavy handed. This is a rough draft.

IN THE MATTER OF FOREST SERVICE)

Forest Service District Ranger, Jeff Jones, met with the Board. Jones discussed improvements to be completed in the Mann Creek area in 2025. Jones informed the Board that the lines have been redrawn for the Johnson/Goodrich Planning Area to include a portion of Washington County, mostly in the roadless area. Travel management and trail maintenance will be addressed. Documentation for the project is to be signed in the spring of 2024.

Jones discussed fuels on 4<sup>th</sup> of July and Adams Creek in the Mann Creek area. Jones reported that the prescribed burn is expected to be completed by the fall of 2023. There was discussion regarding burning in permitted areas.

There was discussion regarding White Bark Pine. Wilkerson discussed snowmobile parking on Seid Creek.

IN THE MATTER OF BOYS AND GIRLS CLUB)

Dana Castellani met with the Board. Also present was Washington County Assessor, Debbie Moxley-Potter.

Castellani informed the Board the Boys and Girls Club has purchased a building at the Intermountain Institute. Castellani presented a Property Tax Exemption Application to the Board for review. Castellani provided an overview of the organization to the Board.

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IN THE MATTER OF PERSONNEL)

Brian Dalton and Travis Walker met with the Board.

Haines discussed the process to follow for the meeting with Dalton and Walker.

Dalton and Walker submitted their written concerns to the Board for review.

Dalton addressed the Board and stated that there are concerns with the Road and Bridge Department. Dalton discussed inconsistencies and organization within the department.

Concerns regarding wages, use of county funds, inconsistency in disciplinary actions taken.

Walker discussed accountability for employees regarding damages to equipment and phone lines while working on projects. Favoritism shown to some employees was mentioned and inaccurate information being provided to the Board. Walker encouraged the Board to talk to the employees within the department.

Dalton discussed the process of selection of a new shop foreman and changes to the qualifications made at that time. Dalton stated the requirements for the shop foreman should not have been “dumbed down.”

Dalton stated job descriptions were updated multiple throughout the years and increased from 1 page to 2 ½ pages. Dalton stated he understands that duties may change but that it is not appropriate to change the job description several times throughout the year.

Prosecutor, Delton Walker, encouraged the Board to designate one Commissioner for Brian Dalton and Travis Walker to speak with. Haines will meet with Walker and Dalton at a later time. Walker reminded the Board that the written concerns submitted to them is regarding personnel and is confidential.

Lyndon Haines moved, seconded by Gordon Wilkerson to go into executive session at 1:23 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. Gordon Wilkerson, Aye; Lyndon Haines, Aye; Nate Marvin, Aye.

Lyndon Haines stated they were out of executive session at 1:53 p.m.

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Motion by Lyndon Haines, seconded by Gordon Wilkerson and unanimously carried to recess at 1:53 p.m. until February 13, 2023 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.