

February 13, 2023

The Board of County Commissioners of Washington County, Idaho, does hereby meet this 13th day 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 Donna Atwood 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. Lyndon Haines discussed House Bill 85 regarding Title Fees collected through DMV. The bill is scheduled to be heard today.

Gordon Wilkerson moved, seconded by Lyndon Haines to approve a Catering Application for O'Michael's Pub and Grill to be used March 11, 2023 at Sunnyside Farms. Motion carried.

Atwood discussed the reimbursement rates for County travel, mileage and gratuities with the Board.

Wilkerson discussed outdoor lighting at the Fairgrounds and provided an update to the Board.

Haines discussed an Application for ARPA (American Rescue Plan Act) funding submitted by Midvale Fire for 15 radios in the amount \$4,471.74. Haines stated the APRA Committee recommended approval of the application.

Nate Marvin moved, seconded by Gordon Wilkerson to approve the purchase of 15 portable radios for Midvale Fire from ARPA funds in the amount of \$4,471.74. Motion carried.

IN THE MATTER OF MINUTES)

The minutes of the Board not heretofore approved of February 6, 2023 were approved as amended.

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IN THE MATTER OF CLAIMS)

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

The Auditor was authorized to issue warrants totaling \$384,976.01 for general expenses by a motion of Lyndon Haines, seconded by Nate Marvin. Motion carried unanimous.

IN THE MATTER OF PUBLIC DEFENSE COMMISSION UPDATE)

Jennifer Roark with the Public Defense Commission met with the Board. Roark provided an update to the Board regarding Public Defense. Training, recruitment, annual reviews, and funding to the County through the Public Defense Commission were discussed.

Marvin inquired on the status of the Public Defense Commission and the role they will play when the State takes over Public Defense. Roark stated she will remain the County contact for the next year.

IN THE MATTER OF ASSESSOR PROPERTY VISIT)

Tom and Cecelia Hunter met with the Board. Cecelia Hunter addressed the Board. Hunter stated that she was here to address the Commissioners Meeting held January 4, 2023 regarding the Assessor's discussion regarding a request of "money and support for a drone." Hunter stated she had read online that it would cost "\$44,000.00 a year for six years which includes two flyovers." Hunter informed the Board that it is her understanding that the Assessor's office would still be required to make site visits every five (5) years.

Haines stated it is not the purchase of a drone and nothing has been approved at this time. Eagleview is a software, where they fly a fixed winged aircraft. The County would pay the fixed wing to fly two flights over the County. Haines reiterated that it is not the purchase of a drone. Haines informed the group that the County would not have a drone that could be flown at any time. Eagleview is actually a fixed wing airplane similar to google earth, but better quality. Haines re-stated that the County is not buying a drone.

Hunter stated per Idaho Law, property owners own the airspace above their property. Hunter stated that ordinary use of the land above your property is yours as are water and mineral rights. Hunter informed the Board that she had called several people within the State, and this is a gray area. Hunter suggested that instead of spending \$44,000.00 a year for six years why not train the staff. Hunter informed the Board that she had "witnessed them breaking the law." Hunter further stated that they are going to get hurt behaving the way they do in the rural area. Hunter informed the Board that there is a locked gate on the

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road and that only property owners and first responders have keys to the gate. Hunter stated their property is posted with “No Trespassing” signs.

Tom Hunter addressed the Board. Hunter stated he has a master’s degree in computer science and an understanding of technology. Hunter provided examples of satellite images to the Board for review. Tom Hunter stated he has reviewed Eagleview, and Google Earth Pro. Google Earth Pro comes with precision measurement capabilities and is free. Hunter expressed concerns of taxation and the cost of Eagleview. Hunter also expressed concerns of safety of the Assessor’s staff. Hunter discussed the amount of intrusiveness and encouraged phone calls.

IN THE MATTER OF EMERGENCY MANAGEMENT)

Sam Edwards, Emergency Manager, met with the Board. Edwards discussed training available with the Office of Emergency Management. Edwards requested permission to apply for a county credit card.

IN THE MATTER OF PROSECUTING ATTORNEY)

Delton Walker, Prosecuting Attorney, met with the Board. Walker inquired if the Notice of Public Hearing for the Ag Exceptions had been submitted to the paper.

Walker discussed the Oath of Office due to emails that he has received on the matter. Walker reviewed Idaho Law Chapter 210 (S. B. No.7 As Amended) in 1963 and the Form of Oath – Loyalty Oath per 59-401 which read “I will support the Constitution of the United States and the Constitution and laws of this state” which is similar to the Oath we have today. Walker stated the founders of Idaho received their direction from the Federal Constitution. Walker informed the Board that in the Session Law in 1963 the Oath was 305 words. Walker stated the added language was based on a case in 1965, Heckler vs. Shepard, and the Oath per Statute in 1963. Walker stated he had not found anything in case law regarding the wording in the Oath. Walker informed the Board the Loyalty Oath was repealed in 1983 when the Oath was reduced from 305 words to 47 words. There was one case in 1988 that stated the “Oath that magistrates are required by statute to take satisfied provisions of United States Constitution relating to Oaths.” Walker pointed out that the language of “So help me God” was removed. Walker reviewed the State vs. Harrold case with the Board. Walker discussed the Oath or Affirmation taken by the President of the United States.

Walker stated the Constitution does not contain specific language for the Oath but requires that an oath is taken. Walker informed the Board that the current Oath is not what the founders had implemented. The Oath is a to do your job and be loyal. Walker reviewed the Judicial Oath taken by magistrate judges which reads: each member shall,

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take and subscribe to an oath or affirmation to support the Constitution of the United States and the Constitution and laws of the State of Idaho...”

Wilkerson discussed the language in the Oath in 1983. (Idaho Session Law).

Walker stated that if the Oath did say “So help me God” there could be a case brought forward because you cannot have a religious test due to ruling from the U.S. Supreme Court. Walker stated he believed that the current Oath per statute was condensed for the purpose of making the Oath as basic as possible. The Constitution enables laws to be created. If you swear to support the United States and States Constitution you are swearing to support the laws of the State. Walker stated that the County Oath has been updated and if a person wants to retake the Oath, they can at any time.

Haines stated he had received concerns regarding the adoption of the Oath. Haines inquired if the Oath should be adopted per code.

Walker stated the County should refer to the State Statute. There has been no court that has specified that this current Oath is required, but there are oaths specific to specific duties.

Haines discussed the time to take the Oath per Statute 59-404 which states: The Oath of office of County elective officers shall be taken by the County Commissioners before the County Recorders of their respective counties, on the second Monday of January succeeding each general election, and on the same day the other County officers shall take and subscribe the official Oath before the chairman of the board.

The Board inquired if the County could donate funds through budgeted funds to Friends of the NRA. Walker will research the matter.

Lyndon Haines moved, seconded by Gordon Wilkerson to go into executive session at 10:26 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; (c) to conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency, and (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. Gordon Wilkerson, Aye; Lyndon Haines, Aye; Nate Marvin, Aye.

Lyndon Haines stated they were out of executive session at 11:52 a.m.

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IN THE MATTER OF PLANNING AND ZONING)

Planning and Zoning Administrator, Bonnie Brent, met with the Board. Haines inquired on the status of the Public Notice for the Public Hearing regarding the Ag exceptions.

Brent informed the Board that the notice has been sent to the newspaper for publication. Brent stated she had reached out to other counties for information on their processes.

Wilkerson discussed Ag shops.

Haines discussed the definition of an Ag operation.

Wilkerson discussed the language of “principal income” being added to the proposal. Wilkerson stated the assessor goes through what qualifies as Ag exempt. Wilkerson stated that he was good with what the state requires of five (5) or above acres and \$1,000.00 gross.

Brent stated the assessor determines an Ag exemption; the proposal is for an Ag exception to the building code which is different.

Haines discussed the benefit of agriculture. Haines inquired, “Shouldn’t the benefit go to those who are in agriculture and make their living through agriculture.”

Wilkerson stated he believed the word “permit” should be replaced with “Agricultural Building Application”.

Treasurer, Sabrina Young, informed the Board that the Assessor provides an Ag Determination, it is not an exemption. An Ag Determination is related to how value is assessed for Ag producing properties. There are minimum requirements for what may be assessed with an Ag Determination.

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.

Ambulance District Director, Luke Smith, met with the Board. Order No. 23-0010 for payroll expenses in the amount of \$24,058.16 was presented to the Board for review.

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Smith reported that the District is looking to hire two more paramedics. Smith provided an update on other staffing as well. Smith reported the Ambulance District had eighteen calls for service last week which included three transfers and six public assists/refusals for care. Smith informed the Board he is continuing to work on grant applications.

Haines discussed the annual payment to the County for the lease of the Ambulance Hall.

Nate Marvin moved, seconded by Gordon Wilkerson to approve Order No. 23-0010 for payroll expenses in the amount of \$24,058.16. Motion carried.

Lyndon Haines moved, seconded by Gordon Wilkerson 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 OF DRONES)

Laura and Mike Demaray met with the Board. Laura Demaray addressed the Board. Demaray stated she protested the use of drones or fixed winged aircraft for any use especially surveying. Demaray discussed a visit to their property by the Assessor's Office. Demaray stated a no trespassing sign is posted on the property as well as a locked gate and fencing. Demaray stated she is aware of the testimony from the January 4<sup>th</sup> Commissioners Meeting. Demaray informed the Board they are accessible by email or phone. Demaray discussed her dislike in the way her husband was treated by assessor's staff. Demaray informed the Board that the BLM (Bureau of Land Management) cooperates with them and calls before they come on the property. Demaray stated Fish & Game also communicates with them. Demaray proposed that the Assessor's Office contact property owners. Demaray implied that the Assessor's Office staff needs training. Demaray suggested Google and Arce.com be considered as an alternative. Demaray stated that drones may be viewed as an unlawful search. Demaray stated she appreciated those who are willing to run for office. Demaray thanked the Board for the service and their time.

#### IN THE MATTER OF ROAD & BRIDGE/SOLID WASTE)

Road and Bridge/Solid Waste Supervisor, Jerod Odoms, met with the Board. Odoms provided copies of the Unity Bridge Application from Keller and Associates to the Board for review. Odoms discussed bridge inspection reports from ITD (Idaho Transportation Department) with the Board. Odoms discussed work at the Waterways building at the Weiser Solid Waste site. Odoms reported the work will be completed by Road & Bridge

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staff. Odoms informed the Board of upcoming training for himself and staff. An update on upcoming projects was provided to the Board.

Lyndon Haines moved, seconded by Gordon Wilkerson to go into Executive Session at 11:53 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 12:52 p.m.

IN THE MATTER OF AG BUILDINGS)

Lance Hoch met with the Board. Hoch referred to the Idaho State Constitution preamble. Hoch stated he was here to give input to the Ag exemption to Idaho Code. Hoch stated that ownership of property is connected to the Constitution. Hoch read the preamble on the record. Hoch discussed inalienable rights and protecting property. Hoch informed the Board that as a father and landowner, it is his job to secure safety. Hoch provided background on his family and himself. Hoch discussed Universal Building Code and stated it was to protect mortgages and investors. Hoch discussed his experience in ranching, equipment repairs and his personal use of his Ag buildings. Hoch informed the Board that a person cannot separate repairs from an Ag building. Hoch re-iterated that his safety is his responsibility. Hoch referred to the Declaration of Independence and read a portion of paragraph two on the record. Hoch proposed that Washington County follow Idaho County Ordinance No. 10 adopted in 1975, which he submitted to the Board.

Motion by Lyndon Haines, seconded by Nate Marvin and unanimously carried to recess at 1:24 p.m. until February 21, 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.