

March 6, 2023

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

Haines discussed a letter from BLM (Bureau of Land Management) regarding public comment on the expansion of the Western Solar Plan to include Idaho, Washington, Montana, Oregon and Wyoming.

Marvin discussed appointments to the Fair Board.

Lyndon Haines stated he attended the Southwest District Health Board meeting where the Crisis Center was discussed.

Wilkerson stated he attended the SREDA (Snake River Economic Development Alliance) and the NRCS meeting last week. Wilkerson discussed funding that may be available.

Nate Marvin moved, seconded by Gordon Wilkerson to approve Retail Alcoholic Beverage License No. 30 for The Ole 95 Burger House, LLC. Motion carried.

Gordon Wilkerson moved, seconded by Nate Marvin to approve a demand warrant payable to Computer Arts in the amount of \$4,742.80. Motion carried.

Nate Marvin moved, seconded by Gordon Wilkerson to allow the Chairman to sign the US Forest Service Agreement with the Sheriff's Office for patrol on forested land. Motion carried.

Nate Marvin moved, seconded by Gordon Wilkerson to approve the appointment of Bryan Elliot to the Southwest District Health Board. Motion carried.

Nate Marvin moved, seconded by Gordon Wilkerson to approve the Polling Place Agreements for the March 14, 2023, School Levy Election. Motion carried.

March 6, 2023

The Board reviewed the request for funding from the State of Idaho Department of Agriculture in the amount of \$6,000.00 from the 2023 budget.

IN THE MATTER OF MINUTES)

The minutes of the Board not heretofore approved of February 27, 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 discussed the snow plowing over the weekend. Odoms discussed the safety meetings held last week with staff members. Odoms informed the Board the crusher is operating with minor repairs having to be made. Odoms informed the Board that there will be a \$18,000.00 bill for repairs to a roller in the next claims cycle. Repairs on various equipment was discussed. Odoms informed the Board he will draft a letter regarding the possible Road Abandonment Hearing for Denney Lane. Odoms reported that the Department is fully staffed.

Wilkerson informed Odoms that he had attended the NRCS meeting and complimented Odoms on the work done on Chicken Creek.

Lyndon Haines moved, seconded by Gordon Wilkerson to go into executive session at 9:14 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 9:32 a.m.

IN THE MATTER OF ELECTED OFFICIALS AND DEPARTMENT HEADS)

Those present were Juvenile Probation Supervisor, Dahlia Stender; Emergency Manager, Sam Edwards; Information Technology Director, Robert Peterson; Assessor, Debbie Moxley-Potter; Prosecuting Attorney, Delton Walker; Road and Bridge/Solid Waste Supervisor, Jerod Odoms; Weed Superintendent, Bonnie Davis; Treasurer, Sabrina Young; Sheriff, Matt Thomas and Chief Deputy, Brady Johnston.

Sheriff, Matt Thomas, informed the Board that the plumbing engineer will be on site this week to look at the plumbing project for the jail.

March 6, 2023

Treasurer, Sabrina Young, stated the Notice for Pending Tax Deed has been published in the paper. Young stated there are four (4) parcels remaining. Young stated that the County credit card has been requested and received for Sam Edwards.

Weed Superintendent, Bonnie Davis, informed the Board that staff is working to equip the new Gator. Davis informed the Board that due to the weather she is currently working on reports and staff training.

Information Technology Director, Robert Peterson, discussed the set up for the public hearing this afternoon. Peterson informed the Board he will be meeting with the Sheriff's Office tomorrow regarding mobile devices. Peterson stated he hopes to implement weekly training on Outlook Microsoft 365 next week. The training will take place on Thursdays at noon.

Wilkerson discussed the project for windmills in Southern Idaho on Federal Lands.

Assessor, Moxley-Potter, clarified that the discussion was regarding the Lava Ridge Wind Project. Moxley-Potter stated she had received a letter addressed to the BLM (Bureau of Land Management) from several groups and State officials that are opposed to the project.

Marvin stated that the time for public comment has been extended. Marvin discussed items of concern to address in a letter to BLM.

Odoms stated the road system and solid waste infrastructure would not be able to handle the waste of the windmills.

Haines discussed the Wolf Management Plan.

Wilkerson stated the wolf population has increased statewide to 1200-1300. The Board agreed to draft a letter in support of controlling the wolf population.

#### IN THE MATTER OF PROSECUTING ATTORNEY)

Delton Walker, Prosecuting Attorney, met with the Board. Walker reviewed the process to follow regarding Public Hearings.

Walker informed the Board that the appraisal on the Ambulance Hall had been forwarded to the Hospital.

Walker reviewed a subpoena that was received by the Clerk's Office regarding public defense.

March 6, 2023

Lyndon Haines moved, seconded by Gordon Wilkerson to go into executive session at 11:29 a.m. in accordance with 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 10:38 a.m.

Walker discussed having a Soil Scientist meet with the Board and the Planning and Zoning Commission to discuss zoning, prime Ag ground, etc. The meeting is scheduled for April 18, 2023 at 7:00 p.m. Walker stated the goal is to reduce the amount of conflict when rezoning property.

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.

Luke Smith, Ambulance District Director, met with the Board. Order No. 23-20 for general expenses in the amount of \$7,015.10 was presented to the Board for review.

Smith reported the Ambulance District had twenty-four calls for service last week which included five transfers and nine public assists/refusals for care. Smith discussed damages to a second ambulance due to icy roads. There was discussion regarding staffing, pay rates, and the future of EMS.

Nate Marvin moved, seconded by Gordon Wilkerson to approve Order No. 23-20 for general expenses in the amount of \$7,015.10. 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.

Haines stated that the Board will recess at 11:07 a.m. until 3:00 p.m. for the Public Hearing regarding proposed changes.

March 6, 2023

IN THE MATTER OF PUBLIC HEARING – PROPOSED CHANGES TO THE WASHINGTON COUNTY CODE TITLE 3, CHAPTER 1, SECTION 4(B) & (E)

The purpose of the hearing is to receive public comment on proposed changes to the Washington County Code Title 3, Chapter 1, Section 4(B) & (E).

Lyndon Haines opened the hearing at 3:00 p.m. Haines welcomed those in attendance and discussed the process to be followed at the hearing. Haines read the Public Notice on the record.

For clarification Haines stated that, “The proposed code changes does not affect how the Assessor defines agricultural land for property tax purposes. The Commissioners and the Assessor have fielded calls and questions regarding proposed code changes. That definition is found in Idaho State Code 63-604. Any proposed changes will not affect how the Assessor applies that code to agricultural property or the ag exemption, which is the agricultural evaluation declaration, that you currently receive for that property for the purpose of property tax value. The goal of the proposed changes is to clarify what constitutes an agricultural building and that agricultural buildings are not placed within the setbacks for the right of way for public utilities, county roads, or too close to property lines. Comments on how the proposed changes accomplish that or do not accomplish that are appreciated.”

Haines stated the hearing would be recorded and requested that background noise be kept to a minimum. Haines requested that those present refrain from making any noise during someone else’s testimony as the Clerk has to rely on the recording when putting together the record of the hearing.

Haines stated that the proposed changes are in 3-1-4 (B) Exceptions. This is an exception to the administration of the building code. Haines read the proposal on the record as follows: (changes are noted in blue) B. Exceptions: Agricultural/~~Farm~~ buildings shall be exempt from the requirement of the building code. "Agricultural/~~Farm~~ buildings" are defined as structures ~~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, but not the commercial processing of, agricultural, horticultural or viticultural commodities, and shall include stock, dairy, poultry, fruit, and fur-bearing animals. The structure must be~~ designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural product. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public. ~~The owner shall file an agriculture declaration with the building official prior to construction.~~ The owner shall complete an application with the Planning and Zoning Administrator, or other person designated by the Board of County Commissioners and obtain an agricultural/farm building permit. The agricultural/farm building permit shall be issued if the plans, specifications, and completed project conform with the requirements of zoning

March 6, 2023

title 1 and fall within the parameters, outlined in this section, of an agricultural/farm building. The agricultural/farm building permit application shall include building/foundation plans, a site plan – showing location of proposed structures and other structures as well as setbacks. Engineered plans are not required as long as the occupancy stays consistent with the application. Failure to submit all required documents will result in denial of the agricultural/farm building permit.

Haines stated there was a vocabulary clean up in section (E) changing the word “or” to “and”.

Below is a summary of the hearing comments. An audio CD or the zoom link is available upon request.

Kenneth Neufold, Weiser, stated he has an objection to the fact that, “we have been building barns and agricultural buildings for years and not required a permit.” Neufold informed the Board they want to require permits so they can assess on property or assets that are not resalable valued on real estate, and he has a problem with that.

Betty Sutherland, Midvale, testified against the proposal. Sutherland discussed her experiences in California and the rules in place. Sutherland stated she had issues with saying a building containing a bathroom, kitchen or breakroom will not qualify as Ag. Sutherland stated she did not feel it was anybody’s business if a person wanted to put a RV or a bathroom in an agricultural building.

Lance Hoch, Weiser, addressed the Board in opposition of the proposal. Hoch sited the Preamble to the State Constitution. Hoch discussed John Locke, Thomas Jefferson and the writing of the Constitution. Hoch stated he believed that they are encroaching on the rights of life, liberty, ownership of property, and the pursuit of happiness as referenced in Section 1, Article 1 of the State Constitution. Hoch stated that to “encroach upon our neighbor under the strong arm of government is absolutely wrong.” Hoch further stated that an “Ag building on Ag ground needs to have the latitude to do the purpose of what we are there for.” Hoch stated to the Board that he believes that we are given rights and governments and according to our State Constitution, are bound by that and stepping over it would be against our inalienable and constitutional rights.

Mike Kaech addressed the Board. Kaech stated he was in objection to the proposed Ag Building Code changes. Kaech stated to the Board that the Code is not written to support Ag, but to obstruct people who live off the land and enjoy the lifestyle that comes with rural living. Kaech further stated that Washington County Code is poorly written, and one wonders if it is intentional. Kaech stated that by making the Code harder to interpret, the P & Z then is the interpreter and decides who the winners are and who will be the losers. Kaech informed the Board that professionals cannot read and interpret the County Code. Kaech stated that Prosecutor Walker is unable to interpret the Code, that outside legal advice was hired to the tune of \$78,468.00. Kaech inquired why the hearing was being

March 6, 2023

held and suggested that the questionable code be thrown out and start over by adopting a code that has been tried and true in another like county.

Hal Harris addressed the Board. Harris cited the Bill of Rights and the 5<sup>th</sup> Amendment. Harris stated, “Nobody will be deprived of life, liberty, or property without proper operation of law. No property may be taken for public use without fair compensation.” Harris discussed the 14<sup>th</sup> amendment passed in Congress in 1886, “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection under the law.” Harris said, “In regard to setbacks, when you decide you want to have a setback, you folks have to pay for it. It is not something you can grant. The law says you will pay for it.” Harris quoted James Madison. Harris provided a copy of an article on the Sitz family ranch located in Drewsey, Oregon to the Board.

Joe Kulp testified in opposition. Kulp stated he believed we are getting overwhelmed in Washington County. Kulp suggested mirroring Idaho County and their rules and regulations. Kulp stated it would save money to not have inspections or Planning and Zoning. Kulp stated that he did not want any more rules and was against anything regulatory.

Chris Christopherson addressed the Board. Christopherson stated he had issues with the definitions of an Ag building that conflict with the definitions in Title 5 Chapter 2 of County Code. The use of five acres directly goes against the exemptions that are already listed within A1-A2 zoning. Christopherson stated that the request of income is a huge issue of personal information because most families here do rely on outside income in order to have benefits.

Jay Langer stated this a Constitutional issue. Langer discussed comments made by Samuel Adams that the “stewardship of the land will go to the people and not the government.”

Larry Lundin, Midvale, stated this is a waste of time and should have never come up. Lundin stated, if it is not broken, don’t fix it.”

Denise Wolfe, Weiser, inquired what the punishment was for those who break the rules.

Haines stated the punishment for the code is the same throughout. Haines read the violations per code found in 69-11-2012. Haines stated the point of the hearing is to get public comment.

Wolfe inquired on the cost of the permit.

March 6, 2023

Haines stated there is no cost to the permit.

Kirk Chandler, Weiser, addressed the Board stating he was a County Commissioner for ten years. Chandler discussed the process of passing an ordinance after holding a hearing. Chandler stated State Code exempts Ag and farm buildings. Chandler discussed the ability of the County to be stricter than State Code. Chandler stated property rights need to be preserved. Chandler stated he is against this Code and that the Code we have needs to be revised so there are not contradictions in it.

Dan Leuthold, Midvale, stated he was opposed to the proposal. Leuthold stated he is for personal liberties and the right to do things. Leuthold stated he objects when there is an infringement on that right.

Sean Alix addressed the Board. Alix read a quote from William Blackstone on the record. Alix referred to the minutes of the January 17, 2023 and January 23, 2023 Commissioner meetings. Alix inquired who had drafted the proposal. Alix stated the main duty of our form of government is to protect, not infringe on the rights of citizens.

Marcia Nickell, Weiser, spoke in opposition of the proposal. Nickell stated she left California to get away from the rules and regulations.

Conley Walker, Weiser, discussed the current Ag Declaration form. Walker agreed that setbacks are not necessarily a bad thing to protect property owners from property owners. He stated he didn't want a neighbor to build right on the property line. Walker suggested cleaning up the current form, keep it simple. Walker stated easements differ on each County Road and is problematic. He suggested having a simple footprint for an Ag building.

John Martin, Midvale, addressed the Board. Martin discussed trespassing and the use of drones. Martin encouraged the Board to look at regulations and the Constitution.

Randy Bergquist, Weiser, stated he is opposed to the proposed changes and that he felt there is enough regulation in place. He stated that we don't need a Planning and Zoning Commission to regulate.

Wood Woodcock, Weiser, stated he is opposed to the proposal. Woodcock stated that Brad Little had said Idaho was the least regulated State in the Country. Woodstock stated less regulations mean more freedom. Woodcock said the proposal seems like a gross over-reach. Woodcock said the County should stick close to existing State Codes. Woodcock said "principal income" should be removed. Woodcock discussed the requirement of engineered plans said that should be removed.

Terry Moreland, Midvale, informed the Board the whole deal is kind of scary. Moreland informed the Board could be better spent. Moreland stated the family farm has been



March 6, 2023

taking a beating forever and this feels like more of that. Moreland discussed the income requirement and having a sink or bathroom in an Ag building.

Ashley Mundell, Weiser, addressed the Board. Mundell discussed the 5<sup>th</sup> Amendment. Mundell told the Board they will not sit idle while you infringe on their god given rights. Mundell stated it is impossible for a young family to begin a farming way of life. She told the Board they were not elected to dictate what farmers and ranchers can do on their property. Mundell suggested the Board put the Idaho County Code before the people for a vote.

Tad Mundell, Weiser, stated he was opposed to the proposal. Mundell discussed his purchase of property without an available building permit. Mundell inquired on what had caused the issue on people living in Ag buildings.

Mikel Smith, Midvale, addressed the Board in opposition to the proposal. Smith stated the county has made the permit process expensive. Smith discussed funding that has been spent for outside counsel. Smith requested the Board simplify or eliminate the building permit process on A1 properties.

Mary Lundin, Midvale, asked what the motivation behind the proposal was. Lundin stated a building needs to have multiple use purposes.

Brian Shanahan, Weiser, discussed possible recalls and stated no one is above the law. Shanahan thanked the Board for taking office. Shanahan suggested the Board look at Idaho County code.

Darrel Onthank, Midvale, discussed the Constitution and rights of people. Onthank said this is the path that starts the area to look like Seattle, Washington, and California. Onthank stated that he was aware that the Commissioner's job is about safety and wellbeing of the people. Onthank stated, "This is about power."

Mark Johnson, Midvale, said he never met a farmer who bragged about a 401K. Johnson told the Board agriculture is a way of life.

Steve Leonard, Midvale, stated he disagrees with any more ordinances on agriculture. Leonard stated that if farmers have to sell, the only thing that grow on that land is houses. You will never get the Ag land back.

David Smith, Midvale, testified in opposition. Smith discussed monies paid to outside counsel. He also discussed the Lancaster decision regarding property splits. Smith told the Board he is afraid we will have to go to court to be able to see all the opinions that the outside attorneys provided the county.

March 6, 2023

Brian Heller, Weiser, discussed his background. Heller said that as a real estate investor and construction company owner he has dealt with Planning and Zoning and watched changes in code over the years. Heller told the Board he had heard that there is no cost to the proposal. Heller said there is always a cost to changes. Heller discussed incidents in Colorado.

Carolyn Kiesz, Midvale, told the Board that people choose rural living for many reasons and usually counties do not have regulations like a city. Kiesz said it is not the County's job to tell farmers and ranchers how to run their businesses, build their Ag buildings, where to put them, or what to put in them. Kiesz said the goal of the county should be to maintain freedom for the farmers and ranchers to run their businesses unencumbered by needless regulations.

Rick Kiesz, Midvale, told the Board to consider how Idaho County operates. Kiesz stated Idaho County Planning and Zoning was disbanded in 1986. Kiesz told the Board that Washington County is so restrictive that some people have asked to be annexed into the city limits. Kiesz read a portion of Idaho County Code on the record.

Frank Schwartz, Cambridge, stated he did not support the changes to the Code. Schwartz stated he had provided written comments. Schwartz informed the Board that the problems the County appears to want to solve with the changes should be addressed by enforcing existing laws. Schwartz discussed concerns of use of outside counsel and the cost associated with that. Schwartz said he believed an independent review of the use of outside counsel should be conducted and residents should be informed of the results.

Veronica True, Midvale, thanked everyone who had already spoken and stated she shared their feelings.

Robert Bias, Cambridge, informed the Board that Idaho is falling down rapidly. Bias stated he had 3,000 acres and asked how many people can make a living on less than that. Bias discussed the population of the County and asked how many were in g. Stated he had seven (7) building sites on his property and asked if they were still in effect.

Cody Chandler, Weiser, addressed the Board. Chandler stated he was disappointed that he had to take time off to be here. Chandler discussed his family history and stated he leases properties. Chandler discussed Ag exemption and the possibility of the people he leases from losing their Ag exemption.

Haines stated written comment had been received from Kimberly Royer, Royce Schwenkfelder, Cindy Womack-Steele, Tina Watkins, Frank Schwartz and Llyod Roberts that will be entered into the record.

Bob Gallagher, Weiser, asked for a show of hands of people in support or opposed to the proposal.

March 6, 2023

Rick Roberson stated he was against the proposal. Roberson stated the building codes are meant to keep people safe and make sense for public buildings. Roberson stated it is his opinion, it makes no sense for a farmer or anyone else to need a permit to build a shed, barn or shop. As a good neighbor, Roberson stated he should not tell others how to live. Roberson discussed the cost of construction and stated that permits add to the cost.

Tim Smedley, Weiser, addressed the Board. Smedley stated there is a process and a permit for a hardship that allows for a second residence to allow a person to care for someone on your property. Smedley discussed property splits and said a person would want to know that when purchasing property. Smedley suggested leaving in the \$1,000.00 income in the proposal. Smedley stated that codes, rules, and laws are necessary for democracy to function. Smedley discussed insurance costs. Smedley stated setbacks are critical.

Haines closed the hearing at 4:44 p.m.

Gordon Wilkerson moved, seconded by Nate Marvin to approve an Alcohol beverage Catering Application submitted by The Office Bar, LLC to be used March 11, 2023 at the Washington County Exhibit Hall. Motion carried.

Motion by Lyndon Haines, seconded by Gordon Wilkerson and unanimously carried to recess at 4:45 p.m. until March 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.