

BOCC MINUTES-06/04/18

080275 **THE BOARD OF WHITMAN COUNTY COMMISSIONERS** met in their Chambers in the Whitman County Courthouse, Colfax, Washington for **Monday, June 4, 2018 at 9:00 a.m.** Chairman Dean Kinzer, Arthur D Swannack and Michael Largent, Commissioners and Maribeth Becker, CMC, Clerk of the Board attended.

9:00 a.m. - Call to Order/Board Business/BOCC Workshop.

Present: Gary Petrovich, Mark Storey, Bill Tensfeld (9:00 a.m.).

080276 **1.** The following items were discussed but no action was taken.

- BOE Training
- Property Tax Reminder Notice
- Steptoe Butte/RCO Letter
- Auditor's Office Credit Card
- Purdue/Pharma Lawsuit
- EC Loan for Radios
- PayneWest Liability Consult.
- Circus June 13th at Fairgrounds
- IT Gas Leak Resolved
- 2018 Road Project Updates
- Storm Repair Work
- Solid Waste Cell 1-3 Repairs
- Election Return Postage
- Budget Amendment #1
- 2019 Budget Calendar
- 2019 Budget Goals/Priorities
- Accessible Comm. Adv. Comm.

10:05 a.m. - Recess.

10:15 a.m. - Flag Salute.

Present: Paul Spencer, Garth Meyer and Gary Petrovich.

D080276A **2.** **Pledge of Allegiance.**

Consent Agenda:

080277 **3.** Commissioner Largent **moved** Commissioner Swannack **seconded** the motion and it **carried** to accept the consent agenda as presented.

080278 **4.** Treasurer's Wire Transfers and Check Report in the amount of **\$15,741.40** and General Claims/Veterans' Relief warrants numbered **336637-336684** for **\$245,274.24** approved.

080279 **5.** May 21, 2018 minutes approved.

080279A-080279D **6.** Personnel change orders approved.

080280 **7.** Commissioner Largent **moved** Commissioner Swannack **seconded** the motion and it **carried** to authorize publishing a notice of hearing for budget amendment #1.

080281 **8.** **Motion** by Commissioner Largent **seconded** by Commissioner Swannack and **carried** to approve a credit card request for Cindy Pitts with a \$5,000 credit limit.

080282 **9.** Commissioner Largent **moved** Commissioner Swannack **seconded** the motion and it **carried** to appoint Larry Shenbakken to a 2-year term, expiring 06/01/20 on the Classification Committee.

080283 **10.** Commissioner Largent **moved** Commissioner Swannack **seconded** the motion and it **carried** to reappoint:

Chris Tennant to a 3-year term expiring 06/30/20, Steven Hansen to a 3-year term expiring 06/30/21, Mark Bailey to a 3-year term expiring 06/30/20, Bill Tensfeld to a 3-year term expiring 06/30/21, Dean Wigen to a 3-year term expiring 06/30/20, Marv Pillers to a 3-year term expiring 06/30/21, Scott Kruse to a 3-year term expiring 06/30/20, Rick McNannay to a 3-year term expiring 06/30/20 on the Whitman County Emergency Communications Advisory Board.

080284 11. Commissioner Largent **moved** Commissioner Swannack **seconded** the motion and it **carried** to sign an agreement between Whitman County and PayneWest for general liability coverages consulting services. Commissioners were in agreement that as good stewards of county funds to periodically review the insurance market for Whitman County

080285 12. **Motion** by Commissioner Largent **seconded** by Commissioner Kinzer to sign a resolution authorizing a lawsuit between Whitman County and Purdue Pharma and a legal contingency fee agreement with Keller-Rohrbach, LLP for the same.

Commissioner Largent said this is a tough call and there are no legal fees associated with moving forward. He preferred Whitman County be in control of any funds received should the county prevail rather than the state. He also noted Whitman County is a very small player in this pursuit.

It was Commissioner Swannack’s opinion this issue should have been resolved through the medical field and FDA rather than lawsuits dealing with people with chronic pain.

Commissioners Largent and Kinzer voted aye; Commissioner Swannack voted nay. **Motion carried.**

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF WHITMAN COUNTY, WASHINGTON

**IN THE MATTER OF AUTHORIZING THE EXECUTION)
OF AN ATTORNEY ENGAGEMENT AND CONTINGENCY)
FEE AGREEMENT IN CONJUNCTION WITH THE)
FILING OF A LAWSUIT IN THE APPROPRIATE)
LEGAL FORUM AGAINST THE MANUFACTURERS AND)
WHOLESALEERS OF PRESCRIPTION OPIOID)
PAIN KILLERS)**

RESOLUTION NO. 080285

WHEREAS, pursuant to the provisions of RCW 36.32.120(6), the Board of County Commissioners of Whitman County, Washington (“Board” or “Board of County Commissioners”) has the care of County property and the management of County funds and business and in the name of the County may prosecute and defend all actions for and against the County, and such other powers as are or may be conferred by law; and,

WHEREAS, as reported by the Centers for Disease Control and Prevention (“CDC”) and other sources, and as declared by numerous state and local governments across the country, the United States is currently experiencing an epidemic and crisis unlike any it has seen before - the misuse, abuse, and over-prescription of opioids; and,

WHEREAS, since the mid-nineteen ninety’s (1990’s) sales of opioids have increased almost tenfold, revenues for pharmaceutical companies that manufacture these drugs have skyrocketed, and opioids have become the most prescribed class of drugs in America; and,

WHEREAS, as a result of the flood of opioids into America, Whitman County has had to deal with the effects of widespread opioid addiction, including substantial costs to various departments within the County; and,

WHEREAS, the CDC recently estimated that the total economic burden of prescription opioid abuse costs the United States \$78.5 billion annually, which includes significantly increased costs for healthcare and addiction treatment as well as dramatic increases in strains on human services and criminal justice systems, as well as substantial losses in workforce productivity; and,

WHEREAS, drug manufacturers of opioids represented to physicians and the public that opioids were safe and effectively treated pain, with a low risk for addiction. However, but for many of those prescribed opioids, the consequences have been severe; and,

WHEREAS, there have been no long-term studies demonstrating that opioids are effective for treating long-term or chronic pain. Instead, significant research has demonstrated the dangers of opioids including, among others, overdose, motor vehicle injury, and opioid use disorder; and,

WHEREAS, Whitman County desires to hire the firm of Keller Rohrback LLP to investigate potential claims against manufactures and wholesalers of opioid pain killers and as a result thereof initiate appropriate litigation with respect to Whitman County's claims; and,

WHEREAS, pursuant to the provisions of RCW 36.27.040, the Prosecuting Attorney may appoint one or more special deputy prosecuting attorneys upon a contract or fee basis whose authority shall be limited to the purposes stated in the writing signed by the Prosecuting Attorney and filed in the County Auditor's office.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of County Commissioners of Whitman County, Washington, pursuant to the provisions of RCW 36.32.120(6), the Board does hereby authorize the execution by the chairperson of the Board or a majority of the Board a document entitled "Attorney Engagement & Contingency Fee Agreement", subject to execution also by the Whitman County Prosecuting Attorney, which document will employ the firm of Keller Rohrback, LLP to investigate and file a lawsuit in the appropriate legal forum with respect to claims that Whitman County has against the manufacturers and wholesalers of prescription opioid pain killers in conjunction with Whitman County's performing its statutory responsibilities including but not limited to Detention Services; Whitman County Prosecuting Attorney, Whitman County Public Defender, and Whitman County Sheriff.

PASSED AND ADOPTED this 4th day of June, 2018.

BOARD OF COUNTY COMMISSIONERS
OF WHITMAN COUNTY, WASHINGTON

Dean Kinzer, Chairman

Arthur D Swannack, Commissioner

ATTEST:

Maribeth Becker, CMC
Clerk of the Board

Michael Largent, Commissioner

080286 **13.** Emergency Communications radios loan postponed to 06/18/18.

080287 **14.** Emergency Communications purchases of radios postponed to 06/18/18.

CORRESPONDENCE:

D080287A **15.** The following correspondence was received:

080288 **15A.** Notice of an approved liquor license for Boyer Park & Marina KOA was received from the Washington State Liquor and Cannabis Board.

080289 **15B.** Notice of approval of a marijuana license location change for Roach Indistrees, Colfax, WA was received from the Washington State Liquor and Cannabis Board.

080290 **16.** Commissioners' pending list reviewed.

10:35 a.m. - Recess.

11:00 a.m. - Public Works.

Present: Mark Storey, Brandon Kruger, Alan Thomson, Katrin Kunz and Paul Spencer.

080291 16A. The following Public Works related issues approved/updated:

ACTION ITEMS:

080292 17. The regular meeting was recessed and the hearing convened by the Chairman for a proposed rezone submitted by Whitgro, Inc. and Inland Empire Milling Company.

Staff report provided by Katrin Kunz as follows:

The proposal is for the rezoning of 7 grain operations from the Agricultural District to the Limited Heavy Industrial District.

The Chairman opened the hearing to public comment. There being none, the hearing was adjourned and the regular meeting reconvened.

080293 18. Commissioner Largent **moved** Commissioner Swannack **seconded** the motion and it **carried** to adopt the findings of fact and approve the amendment of the Whitman County Zoning map for seven commercial grain operations as stated in the official transmittal from Agricultural District to Limited Heavy Industrial District.

ORDINANCE NO. 080293

AN ORDINANCE AMENDING THE WHITMAN COUNTY ZONING MAP TO CHANGE THE ZONING FROM AGRICULTURAL DISTRICT TO LIMITED HEAVY INDUSTRIAL.

BE IT ORDAINED and enacted by the Board of County Commissioners of Whitman County, State of Washington, it having been determined by the Board after hearing the Recommendations and Findings of Fact of the Whitman County Planning Commission that these should be accepted and this action is consistent with the Whitman County Comprehensive Plan.

Change the zoning for Whitgro, Inc. and Inland Empire Milling Company for seven commercial grain operations in Whitman County from the Agricultural District to Limited Heavy Industrial Districts. The properties are located as follows: 1) east of St. John, just outside city limits, in Section 6, Township 18 N., Range 42 E., W.M., 2) on SR 23 approximately 6 miles west of Steptoe in Section 35, Township 18 N., Range 42 E., W.M., 3) in the unincorporated community of Ewan, in Section 26, Township 19 N., Range 40 E., W.M., 4) on Pine City Malden Road approximately 1.5 miles north of St. John, in Section 30, Township 19 N., Range 42 E., W.M., 5) in the unincorporated community of Sunset, in Section 26, Township 19 N., Range 42 E., W.M., 6) on Endicott Road in Thera, approximately 6 miles east of Endicott in Section 30, Township 17 N., Range 42 E., W.M., and 7) in the unincorporated community of Winona, in Sections 20 and 29, Township 17 N., Range 40 E., W.M., Whitman County, Washington.

PASSED AND APPROVED by the Board of Whitman County Commissioners of Whitman County, Washington, on the 4th day of June, 2018.

BOARD OF COUNTY COMMISSIONERS
OF WHITMAN COUNTY, WASHINGTON

Dean Kinzer, Chairman

Arthur D Swannack, Commissioner

Michael Largent, Commissioner

ATTEST:

Maribeth Becker, CMC
Clerk of the Board

11:15 a.m. - Garth Meyer.

080294 **19.** The regular meeting was recessed and the hearing convened by the Chairman for proposed revisions to the Whitman County Code, Title 19.56 related to Home-Based Businesses.

Staff report provided by Alan Thomson as follows:

- Majority of changes removes "certified mail" requirement.
- Permits were previously valid for 5 years and the years were removed for consistency with other portions of the code.
- Typographical errors.

The Chairman opened the hearing to public comment.

There being none, the hearing was adjourned and the regular meeting reconvened.

080295 **20.** Commissioner Largent **moved** Commissioner Swannack **seconded** the motion and it **carried** to adopt the findings of fact and revise the Home-Based Business Code as presented.

ORDINANCE NO. 080295

AN ORDINANCE AMENDING CHAPTER 19.56 - HOME-BASED BUSINESSES, to strike references to certified mail and return receipt language, strike language limiting a permit to five years and making a few scrivener's corrections, as described in the proposed ordinance hereto attached and made a part of by reference. These changes are consistent with the Whitman County Comprehensive Plan and Zoning Ordinance.

BE IT ORDAINED and enacted by the Board of County Commissioners of Whitman County, State of Washington, it having been determined by the Board after hearing the Planning Department's Recommendations and Findings of Fact, after the Board's public hearing and adoption of Findings of Fact.

PASSED AND APPROVED by the Board of Whitman County Commissioners of Whitman County, Washington, on the 4th day of June, 2018.

BOARD OF COUNTY COMMISSIONERS
OF WHITMAN COUNTY, WASHINGTON

Dean Kinzer, Chairman

Arthur D Swannack, Commissioner

ATTEST:

Maribeth Becker, CMC
Clerk of the Board

Michael Largent, Commissioner

Chapter 19.56 - HOME-BASED BUSINESSES
(Revised April 21, 2008; Resolution No. 068024)

Section 19.56.010 - Purpose and Scope

It is the purpose of this chapter to describe within one chapter the differentiation of home-based business approvals. The purpose of allowing home-based businesses is to encourage growth of small businesses while at the same time maintaining the residential

character and quality of life as consistent with the district in which this use will be located.

Section 19.56.020 - Permits Required.

A home-based business may be allowed either as:

- A. A permitted use, or
- B. An administrative use, or
- C. A conditional use.

The Planning Director shall create the applications necessary to implement the review and notices for home-based businesses.

Section 19.56.030 - Home-based Business Allowed as a Permitted Use.

A home-based business shall be allowed as a permitted use when it uses only those structures permitted under the zoning district in which the residence is located, and:

- A. When, from the property line of the lot on which the home-based business will operate, it cannot be:
 - 1. seen, or
 - 2. heard, or
 - 3. felt, or
 - 4. smelled, or
 - 5. having customer visits.

Section 19.56.040 - Home-based Business Allowed as an Administrative Use.

A home-based business shall be allowed as an administrative use when:

- A. Any of the above criteria is observable and/or sensed from beyond the property line of the lot on which the home-based business will be located, and
- B. The resident of the property has successfully obtained waivers from adjacent property owners whose property is within 300 feet of the applicant's lot perimeter property lines, or there has not been a response to a certified mail notice within 20 days, and
- C. When the number of anticipated customer trips exceeds twelve (12) trips per day, the applicant must successfully obtain waivers from any residents with homes within 300 feet of the right-of-way along the traveled, graveled road from the point of the home-based business to the nearest paved road, or there has not been a response to a certified mail notice within 20 days.

If waivers from all of the adjacent property owners have been obtained, or if after notice by certified mail and return receipt there has been no objection from any adjacent property owner, or if negotiated modifications mutually acceptable to the applicant and the relevant property owners have been decided, then the Whitman County Planning Director will issue an administrative use permit that will be valid for five years. If there is an objection from any of the identified potentially affected property owners, then the Administrative Use Permit cannot be issued, but the applicant has the right to seek approval for the use from the Board of Adjustment as a conditional use.

Section 19.56.050 - Home-based Business Allowed as a Conditional Use.

A conditional use for a home-based business shall be required when any property owner within 300 feet of the proposed home-based business lot property line or within 300 feet of the graveled, traveled road as defined in 19.56.040(c) objects to a proposed administrative use permit, a conditional use permit will be needed in order for the business to be allowed.

Any use currently listed as a conditional use within that zoning district can also only be permitted as a conditional use, and cannot be permitted under 19.56.030 or as a home-based business administrative use permit.

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All conditional use applications must have undergone State Environmental Policy Act (SEPA) review, and a public hearing before the county Board of Adjustment.

Any use that is listed as a conditional use or a permitted use in any zoning district shall be allowed only within those zoning districts that list such uses.

DIVISION UPDATES:

D080295A 21. The following division updates provided by Public Works staff.

Maintenance Division:

D080295B 21A. Public Works is unable to continue with the 2-3 weeks left for the weed spray program due to illness. The residual spray component was completed but not the noxious weed spray. Public Works is contemplating its options; anyone contracted to perform this service must have a public applicator's license. The commissioners provided some suggestions to staff.

D080295C 21B. The Sand Road project is still on target for closure next week.

D080295D 21C. The annual road stabilization program was completed. Various roads around Pullman and Colfax were selected and all went well.

Planning Division:

D080295E 21D. Mr. Thomson explained the last Voluntary Stewardship Program (VSP) Watershed Group meeting was dedicated to revising information for educating the growers' (brochures and website). The VSP implementation coordinator's big push is the Palouse Empire Fair when many farmers will be in attendance and can be educated about the VSP program.

Engineering Division:

D080295F 21E. The Farmington Road overlay project has been submitted for funding.

Solid Waste Division:

D080295G 21F. The contractor will be mobilizing next week for repairs to Cells 1-3.

D080295H 22. Approved documents signed.

11:45 a.m. - Recess.

2:00 p.m. - Reconvene/Board Business Continued/BOCC Workshop.

Present: Troy Henderson, Chris Nelson, Michele Beckmann, Bailey Wiedmer (2:00 p.m.) and Gary Petrovich (2:40 p.m.).

080296-080297 23-24. The following items were discussed but no action was taken.

- HIPAA
- Dept. Head Salaries
- Non-Represented Wages

3:50 p.m. - Recess.

D080297A **THE BOARD OF WHITMAN COUNTY COMMISSIONERS** met in their Chambers in the Whitman County Courthouse, Colfax, Washington for **Monday, June 11, 2018** at **9:00 a.m.** Chairman Dean Kinzer, Arthur D Swannack and Michael Largent, Commissioners and Maribeth Becker, CMC, Clerk of the Board attended.

9:00 a.m. - Reconvene/Board Business Continued.

D080297B 25. Approved consent agenda items signed.

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080298-080299 **26.** Treasurers Wire Transfers and Check Report in the amount of **\$528,505.23**, Payroll warrants numbered **336686-336690** for **\$562,587.02** and General/Veterans' Relief/Payroll warrants numbered **336691-336823** for **\$595,466.23** approved.

080300-080303 **27.** Personnel change orders.

9:05 a.m. - BOCC Workshop.

Present: Gary Petrovich, Mark Storey, Bill Tensfeld, Kelli Campbell and Will DeMarco (9:05 a.m.).

080304-080305 **29-29.** The following items were discussed but no action was taken.

- Plan. Comm. Candidates
- MRSC-JLARC Report
- MRSC-Voting Rights Act
- Board of Equalization
- Budget Amendment #1
- 2019 Goals & Priorities
- Sand Road Improvements
- Program Mgr. of the Year
- May Financial Report
- Weed Spray Program
- Outdoor Amusement Ord.
- HB 2057

080306 **30.** The 1:30 p.m. workshop with Ken Hanson was postponed to June 18th.

11:15 a.m. - Recess.

D080306A **THE BOARD OF WHITMAN COUNTY COMMISSIONERS** met in their Chambers in the Whitman County Courthouse, Colfax, Washington for **Thursday, June 14, 2018** at **10:00 a.m.** Chairman Dean Kinzer, Arthur D Swannack, Commissioners and Maribeth Becker, CMC, Clerk of the Board attended. Commissioner Largent was not available.

10:00 a.m. - Reconvene/Board Business Continued/BOCC Workshop.

Present: Eric Johnson, WSAC Executive Director, Blaire Brady, WSAC President and Scott Hutshell, WSAC Vice-President and Gary Petrovich.

080307 **31.** The main topic of discussion was WSAC Strategic Litigation and Communications Program. No action was taken.

- WSAC Briefing

12:00 p.m. - Adjournment.

D080307A Commissioner Largent **moved** to adjourn the **June 4, 11 and 14, 2018** meeting. Motion **seconded** by Commissioner Swannack and **carried**. The Board will meet in regular session, in their Chambers', in the Whitman County Courthouse, Colfax, Washington, on **June 18, 2018**. The foregoing action made this **14th** day of **June 2018**.

ss/ ARTHUR D SWANNACK, COMMISSIONER
ss/ MICHAEL LARGENT, COMMISSIONER

MARIBETH BECKER, CMC
Clerk of the Board

DEAN KINZER, CHAIRMAN
Board of County Commissioners