

Commissioner Minutes

September 17, 2024 – 10:30 a.m. to 11:21 a.m.

**MEETING TO DISCUSS DSD GENERAL BUSINESS**

Commissioners Leslie Van Beek and Brad Holton

DSD Director Sabrina Minshall

DSD Assistant Director Jay Gibbons

DSD Office Manager Jennifer Almeida

Associate Planner Emily Kiester

Director of Constituent Service Aaron Williams

Assessor Brian Stender

Chief Deputy Assessor Greg Himes

COO Greg Rast

Deputy P.A. Zach Wesley

DSD Planning Supervisor Carl Anderson

Deputy Clerk Jenen Ross

MEETING TO DISCUSS DSD GENERAL BUSINESS

The Board met today at 10:30 a.m. to discuss DSD general business. Present were: Commissioners Leslie Van Beek and Brad Holton, DSD Director Sabrina Minshall, DSD Assistant Director Jay Gibbons, DSD Office Manager Jennifer Almeida, Associate Planner Emily Kiester, Director of Constituent Service Aaron Williams, Assessor Brian Stender, Chief Deputy Assessor Greg Himes, COO Greg Rast, Deputy P.A. Zach Wesley (arrived at 10:36 a.m.), DSD Planning Supervisor Carl Anderson (arrived at 10:43 a.m.) and Deputy Clerk Jenen Ross.

Today's meeting is a continuation of the discussions from last week about determining what is agriculture in terms of a usable definition and where does it apply. As presented by Ms. Keister last week there are multiple terms throughout county ordinance and state law that apply in different ways. Today's follow-up is related to Title 63, chapter 6, how agriculture and agricultural exemptions are determined. This statute is also used in the new state statute for agricultural planning area. They have been working to determine how much of this can be used as a proxy for some of the work they do in chapter 7 with non-viable. They've invited the Assessor's Office in today to talk about what this mean in their world and then follow-up with some recommendations as to whether it does or doesn't apply in the land use world besides the state law that requires it and what does it look like.

Greg Himes gave a reviewed statute 63-604 which covers revenue and taxation and exemptions from taxation as follows:

(a) The total area of such land, including the homesite, is **more than five (5) contiguous acres**, and is actively devoted to agriculture, which means:

(i) It is used to produce field crops including, but not limited to, grains, feed crops, fruits and vegetables

(ii) It is used to produce nursery stock

(iii) It is used by the owner for the grazing of livestock to be sold as part of a for-profit enterprise or is leased by the owner to a bona fide lessee for grazing purposes

Individually, any of the above noted would qualify as ag use.

(iv) It is in a cropland retirement or rotation program.

Commissioner Holton spoke to some developers in the area who have disturbed the ground in order to put in infrastructure but then want to drill it with wheat or oats without any way to irrigate but still want the ag exemption. Additionally, land use cases are coming before the Board where a person has taken the ag exemption for years, may or may not have taken off a crop each year, and suddenly that ground is non-viable farm ground once they're in front of the Board and want to change the use. One part of county government is recognizing it as a productive piece of farm ground, receiving a tax consideration at the same time telling the Board that the ground is useless and the best and highest use is to put houses on it. Assessor Stender said that per Idaho code for them, it doesn't outline anywhere that you have to be a good farmer, just that the intent is to make a profit. Also, his office appraises to the actual and functional use: "*actual and functional use shall be a major consideration when determining market value for assessment purposes*" ... property could be zoned residential, industrial... if they are actually farming it, they will receive an ag exemption.

(b) The area of such land is **five (5) contiguous acres or less** and such land has been actively devoted to agriculture within the meaning of subsection (1)(a) of this section during the last three (3) growing seasons

(i) It agriculturally produces for sale or home consumption the equivalent of fifteen percent (15%) or more of the owner's or lessee's annual gross income

(ii) It agriculturally produced gross revenues in the immediately preceding year of one thousand dollars (\$1,000) or more. When the area of land is five (5) contiguous acres or less, such land shall be presumed to be nonagricultural land until it is established that the requirements of this subsection have been met

Mr. Himes said this is the majority of the ways people qualify for an ag exemption.

Commissioner Holton asked if some of this could be translated over into land use. Mr. Wesley said there is some potential for them to relate. The issue is that the default is that default zoning is ag, something has to be moved out of ag, that is sort of how the county plan is based. You don't have to meet a certain criteria to get into ag. Mr. Wesley believes that, specifically in the nonviable parcels, there could be a tie-in although he's not sure where it would directly apply.

Director Minshall spoke about complexities in the new state law regarding the APA (Ag Protection Act) in regard to agricultural production and preservation. Further discussion ensued regarding the following:

- Timeframe within the APA, that if it's adopted for 20 years there can't be any changes to zoning or laws affecting the adopted area.
- As part of the APA, the county will need to create its own ordinance while also staying consistent with the land use planning act.
- Options for land owners to voluntarily be part of the APA
- Wildland conservation

Commissioners Holton and Van Beek expressed their thoughts on how they feel this will be impactful to land use decisions.

The meeting concluded at 11:21 a.m. and an audio recording is on file in the Commissioners' Office.

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