

Commissioners Minutes

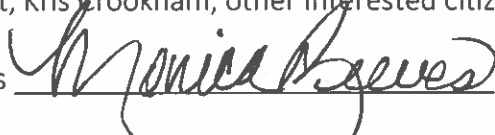
December 18, 2024 - 1:31 p.m. to 3:28 p.m.

PUBLIC HEARING: PROPOSED NEW ARTICLE 9 TO THE CANYON COUNTY ORDINANCE CHAPTER 7 - AGRICULTURE PROTECTION ACT, AND CONSIDER ACTION ITEM

Commissioners Brad Holton, Zach Brooks and Leslie Van Beek

Interim DSD Director Jay Gibbons, Chief Civil Deputy PA Aaron Bazzoli, Deputy PA Zach Wesley, Director of Constituent Services Aaron Williams, Communications Specialist Chad Thompson, David Ferdinand, Steve Burton, Connie Lou Aebischer, Keri Smith, Patrick Williamson, Gerri Smith, Wayne Rundall, Stan Siewert, Kris Crookham, other interested citizens

Deputy Clerk Monica Reeves



PUBLIC HEARING: PROPOSED NEW ARTICLE 9 TO THE CANYON COUNTY ORDINANCE CHAPTER 7 - AGRICULTURE PROTECTION ACT, AND CONSIDER ACTION ITEM

The Board met today at 1:31 p.m. to conduct a public hearing to consider a proposed new Article 9 to the Canyon County Ordinance Chapter 7 - Agriculture Protection Act. The hearing took place in the Public Meeting Room of the Administration Building located at 111 No. 11th Avenue in Caldwell. Present were: Commissioners Brad Holton, Zach Brooks and Leslie Van Beek, Interim DSD Director Jay Gibbons, Chief Civil Deputy PA Aaron Bazzoli, Deputy PA Zach Wesley, Director of Constituent Services Aaron Williams, Communications Specialist Chad Thompson, David Ferdinand, Steve Burton, Connie Lou Aebischer, Keri Smith, Patrick Williamson, Gerri Smith, Wayne Rundall, Stan Siewert, Kris Crookham, other interested citizens, and Deputy Clerk Monica Reeves.

The purpose of the ordinance is to comply with an Idaho state law passed during the 2024 legislative session- Title 67- Chapter 97, Agricultural Protection Act. Idaho State law 67-97 state law requires counties to establish a voluntary process through which agricultural producers may make application to commit lands actively devoted to agriculture production to remain in agricultural use for a minimum of twenty years. As required by state law, an APA designation aims to protect productive farmland, rangeland, and forest land; encourage best farming practices; support the local agricultural economy; and provide for long-term planning stability. This ordinance sets out the process for creation of Agriculture Protection Areas. Any person found to be in violation of this code shall be guilty of a misdemeanor and punishable as provided in Section 18-113, Idaho Code. If approved by the Board of Canyon County Commissioners, the effective date of the proposed ordinance will be January 1, 2025.

There is a proposed action item to consider adopting a new Article 9 to the Canyon County Ordinance Chapter 7 - Agriculture Protection Act.

Interim DSD Director Jay Gibbons said the draft ordinance was taken before the P&Z Commission on November 7 and November 21, 2024, and it made proposed amendments for the Board's

consideration. He reviewed the case packet and noted the minutes from the underlying hearings are still being transcribed. The ordinance does comply with the comprehensive plan.

Chief Civil Deputy PA Aaron Bazzoli said the state legislature created Idaho Code 67-9700 and the subsection chapters which require the Board of Commissioners of every county to establish an Agricultural Protection Area (APA) no later than January 1, 2025. It gave some guidance and requirements for what those ordinances are going to require that has been set forth in the proposed ordinance that the Board has before that included the language in different sections from that. There were a number of changes proposed by the P&Z Commission after their November 21, 2024 hearing and he has reviewed some of those changes and required recommendations for changes and inclusion and exclusion. One of the first ones was they wanted a prohibition and shorthand agricultural protection areas to APA. Prohibition of APA eligible properties within the area of city impact. That is within the Board's discretion, however, all of these properties have to fall under definition which is found in Idaho Code, Section 67-9703 which states that an APA means a specific parcel of land, a designated geographical area and voluntarily created under the authority of these chapters for the purposes of protecting and preserving agricultural land. Any applicant must be someone who owns five acres or more of land that has been in active agriculture or forest production for the previous three consecutive years. You have two requirements, multiple five acres and active agricultural forestry production for at least the three previous years prior to the application process. Idaho Code, Section 67-9704 requires the Board to establish a process by which the applicants apply and get it approved; they are also required to establish the application requirements including but not limited to information about the landowner, descriptions of the parcels, structures, and the facilities proposed to be included in the APA as well as the current use of the land proposed to be in the APA, and any other application requirements. The Board is also tasked with establishing clear and objective standards for the lands to be used in the APA and to establish a timeline for reviewing and making decisions on APA applications consistent with the statutory requirements. The Board is also required to establish an application fee and that fee cannot exceed the actual costs of processing the application. Those fees would cover the administrative costs of processing the applications, reviewing materials, holding public meetings/hearings, providing public notice, recording applicable documents, and updating county land use maps. The Board is required to establish an APA Commission and are required to staff that commission with certified members. An APA shall be designated on future land use planning maps to serve as a voluntary and expeditious look for working landowners while also informing planners, commissions, county officials, and citizens at-large on how to proactively plan for agriculture in our county. The designation of specific parcels of land as APA areas shall not impact parcels of land not designated as APA. The P&Z Commission requested the Board remove requirements to provide for soil classification survey data, however, the Board is required to establish clear and objective standards. They wanted the Board to remove all references to the word *contiguous*; however, Idaho Code, Section 63-604 defines the land as five acres of such land including the homesite has to be more than five contiguous acres an actively devoted to agriculture. That is a statutory requirement by definition. The P&Z Commission also

wanted you to remove the requirement for the comprehensive plan requirements, however, Idaho Code, Section 67-9704 states the APA shall be designated on future land use planning maps to serve as voluntary and expeditious look for working landowners while informing planners, commissions, county officials and citizens at-large, so these are going to have to be modified within and pointed out on the comprehensive plan. The Board shall not require improvements to an APA property to increase or improve compatibility. Under the draft ordinance the commission may consider improvements to promote compatibility with surrounding land uses. There is only a possible additional condition that is required in the Board's discretion, inclusions like setbacks, etc. The P&Z Commission wanted the Board to minimize the fees and simply expedite the approval process. Chief Bazzoli reviewed the statutes that have a requirement for timeframes. The APA Commission is required to review the applications and make recommendations to the Board within 60 days of receiving the application. Within 60 days of receiving a recommendation from the commission, the Board is to hold a public hearing and make a decision based upon the application. If you fail to take action within 60 days of receiving the recommendation, whatever recommendation the commission has is final. The decision to approve or deny an APA is subject to judicial review. The request was also to remove the history of ownership. The Board has the discretion to establish clear and objective standards for the application including the nature of the use of the land and the ownership. The P&Z Commission recommended you remove item b from section 10; that section states unless otherwise approved by the Board, the following land uses are prohibited within an APA and any other use not explicitly allowed in the agricultural zone. You will have to look at the county land use zone matrix and make sure any of those uses you want to consider are proper in an agricultural zone. One of the other recommendations was to remove the DSD staff reminders to the property owners as expiration nears. Once a person applies for and receives approval for an APA it is good for 20 years. At the end of that 20 years, if the landowner desires to continue the APA requirements nothing further needs to be done and the Board will automatically approve the property for an additional 20 years, you can assume that that is in perpetuity so every 20 years it renews for 20 years. If the landowner desires to terminate the APA area then 90 days prior to that 20-year mark, they must provide notice to the Board before the expiration of the APA. There is no requirement that DSD notify them but that that is up to the Board to make that discretion if you wish to have DSD notify them somewhat before the end of the APA that if you wish to have it remain, no further action is taken. If you wish to remove it, you must provide written notice within 90 days. If the landowner does nothing then it renews automatically. The P&Z Commission requested the Board remove evaluation criteria items b through m with the exception of item i. It is the Board's discretion to create a clear and objective standard for evaluating the applications of those factors or standard requirements that the Board has considered and can consider but can also change. They requested that you allow building and structures; however, nothing in the APA prohibits development or building conditions or additions onto the property just as any other comp plan requirements for new buildings or structures. However, under the APA the property must remain qualified and under definition is actively engaged in agricultural property during its 20-year designation. They also mentioned adding renewable energy; Title 67-9710 contained the following language: *The Board of County*

Commissioners having created an agricultural protection area shall encourage the continuity, development, and viability of agricultural use within the specific boundaries designated in the agricultural protection area by not enacting a local law, ordinance, or regulation that would restrict a farm structure or farming practice within the boundaries of the agricultural protection area unless such farm structure or farming practice does not comply with generally recognized farming practices, or the farm structure or land use is in conflict with the current agricultural land use classification or agricultural zoning designation of the area. The Board of County Commissioners shall not change the current agricultural land use classification or agricultural zoning designation for parcels of land within an agricultural protection area without written permission from the landowner. The Board of County Commissioners shall amend applicable land use planning maps to reflect the boundaries of designated agricultural protection areas. Nothing in this section shall prevent a Board of County Commissioners from regulating the siting of large confined animal feeding operations and facilities; the siting of residential, commercial, manufacturing, industrial, solar energy, or wind energy structures, or other non-agricultural land uses on lands included within an agricultural protection area. That is the statutory structure, the mandate that our state legislature gave last year as to how to structure these ordinances, and he thinks they address some of the concerns listed in the P&Z Commission report recommending changes to be made.

Public comments were as follows:

David Ferdinand said a lot of people do not understand what agricultural preservation really means. He appreciates the definitions in the preservation act and said we need to look at all the designations and see if there are subsets that could be utilized because he's heard many people say if it's agriculture it must be farmed, but that's not necessarily true. It is up to the private property owner. Designated areas that come before the P&Z Commission and the Board need to have the input of the private property owner; we don't want government to become the problem, but to assist the property owner in making sure the private owner can do what they want to do with their property. He referenced the Bible upholding the importance of ownership and being able to use private property. He said as the Board works through the definitions in the ordinance it needs to make sure to include individuality and voluntarily in the process.

Steve Burton said he and his brothers are fifth generation owners of 200 acres of farmland that was originally homesteaded, and they are interested in how this language is formed and whether they will volunteer for this type of protection. It's important to note there are probably laws in place right now that you could legally protect your property from growth, but it requires attorneys and a process, but this is a good alternative because it should be a shorter process and much more efficient for the landowner. He said areas of impact should be included, not excluded as proposed, and it is important that the utilities continue to have their rights-of-way even on protected grounds. Lastly, a residence should not be exempt from an APA nor should solar power or wind power as long as it's not exported off the property. The farmer should be able to continue to put up solar energy, renewable energy if that fits with their farm practice.

Connie Lou Aebischer appreciates the comments that were given at the P&Z Commission meeting, and all of the deliberation and review of the statutes and she asked the Board to approve the ordinance with the commendations that are legally allowed.

Patrick Williamson agrees with what was said and he hopes the Board has read his email. As a farmer who does H2A farming he has to provide housing for those workers, and a lot of apartments that can house those workers are usually booked and so allowing a farmer to build their own farm labor housing would be good. Part of his concerns with the exemptions are due to how the Assessor looks at things such as packing houses for onion sheds and fruit packing facilities. If they are packing for anyone other than their own it's considered a commercial operation even if it's on ag land so it's allowing for those types of things. If he wants to build a grape harvest bin trailer, he is manufacturing a trailer on his property and so he wants to include exemptions to things as long as the farm operation can prove it is exclusively for their farm use, or they are doing it for the benefit of farming neighbors in the case of packing sheds and the occasional building of a trailer. He questioned the relevancy of the ownership history and said he has property that's been owned by one family for 116 years, so ownership history is not too relevant. He asked questions regarding noticing requirements and where additional information might be needed.

Chief Civil Deputy PA Bazzoli said the goal is that before the application gets submitted to the APA Commission it's complete so if more information needs to be done with DSD to get a complete application it could be provided within that 60-day timeframe. Once they receive the completed application they have 60 days to decide and once they have made that decision it gets submitted to the Board and then the Board has 60 days. He doesn't believe the APA Commission has to have a public hearing; they receive the application and review it and make a recommendation within 60 days to the Board. In response to a question from Commissioner Holton regarding farmworker housing, Mr. Williamson said he doesn't know what his crops are going to be 20 years from now or what the labor situation will be and he may need to get more housing; he cannot get any more people and with the H2A program he is only allowed to have people for 10 months out of the year and they have to go back for 2 months per federal requirements. There isn't enough incentive to make this a good voluntary program. He has to be fluid and pivot because of market conditions, housing conditions, labor conditions, and mother nature and make sure he has housing on ag ground and that it is a minimal impact. He doesn't want to take away a tool for farmers.

Gerri Smith hopes the Board will take a serious look at the P&Z Commission's recommendations. She referenced the white areas on the map that was displayed at today's hearing and questioned why there aren't any APA areas in the Sunnyslope area given the agricultural ground that exists there as well as others areas such as Greenleaf, Homedale, Marsing and Parma. She has friends who farm who want to keep their property in agriculture and the APA is the answer, but they are not included with the way the map was drawn. Anything west of Farmway should be given the opportunity and she doesn't understand why those areas are excluded. Commissioner Brooks said the white areas on the map are areas of impact. Ms. Smith doesn't understand the thought that would exclude someone from participating in an APA.

Keri Smith said the requirement for staff to notify landowners at the end of 20 years puts the County at a lot of risk for liability and she encouraged the Board not to put that onus on staff. She appreciates Chief Civil Deputy PA Bazzoli's analysis of the P&Z Commission's recommendation. In Exhibit V.E., she points out that Idaho Code, Section 67-6509 states that the Board should not hold a hearing and take action on any proposed amendments until the recommendation has been received by the Commission, and even today the Board has not received a full recommendation from the P&Z Commission, it has only received the draft that Sabrina Minshall provided on October 15, which the Board amended on October 17. To fix this process you should accept an ordinance from the P&Z Commission and act on that ordinance which she does not believe is in front of the Board. She said Commissioner Brooks alluded that he had a copy of the paper recommendation, and she said the public deserves that and the P&Z Commission deserves that recommendation. No one wants to be out of compliance. She hopes the recommendation that was provided to the Board on letterhead is posted for the public to review. She is not clear on Mr. Bazzoli's comments about the impact area, it cannot be located in the city and especially with the size of the impact areas. Ms. Smith said there is some amazing ag ground on the western side she would love to see have the APA opportunity. She does not believe that people are going to jump into this until the legislature passes some amendments and creates an incentive. She referred to Commissioner Van Beek's comments about getting the balance of development prices versus ag prices so we get some equity in the farm ground which is very valuable and it is worth saving and if this ordinance creates an opportunity to save agriculture and that's why she supports its adoption. The Board does not have the minutes or the ordinance from the P&Z Commission. FCO's were provided but she believes they are not complete and the Board should have a copy of the minutes where they will find that the P&Z Commission did not want to take away the ability to have you cite any of the items Mr. Bazzoli was reading, it's that we want you to follow the zoning matrix, we want you to not have any additional powers. Ms. Smith encouraged the Board to take some time to make sure it is complying with state law. Commissioner Holton asked if she knows what enticements the legislature might consider? Ms. Smith said the farm bureau is working on a plan that would be similar to a conservation program where some type of funding mechanism will be developed that will be put into this program where that gap can be met. For example, if a farmer has 6 ½ acres and wants to say the acreage is never going to not be agriculture they could put it into this and an evaluation would be made on what development prices are versus agriculture prices and it would meet that match and pay that out, but from her understanding a clear path to creating that program has not been met. There are federal programs where if we find local matches we can tap into some federal programs, but those specific details have not been shared yet. Commissioner Van Beek asked Ms. Smith if she knew why the P&Z Commission wanted to remove all references to contiguous? Ms. Smith thinks it wasn't fully understood; if she owns 5 acres here and 10 acres there, maybe she wants the opportunity to put both of those properties in the APA even though they are not contiguous, but the intent of the legislation is that it needs to be a minimum of five acres in one area. If a farmer has multiple parcels and she wants to put in multiple parcels she thinks that could be interpreted because they are not contiguous she has to make separate applications although she doesn't think that is anyone's intent. It was not to allow one-acre

parcels. Commissioner Holton asked if she has an opinion that we could delineate on the application that one property owner having multiple tax ID numbers could go under the same application? Ms. Smith said she thinks that each separate noncontiguous piece has to be 5 acres to meet the intent of the law, but you could include multiple 5+ acre pieces. One of the biggest things going back to the comprehensive plan issue is that the statute says you need to update planning maps, it doesn't use the words future land use planning map, it just says you have to update planning maps. It gives flexibility to determine what that means but comp plan maps can be changed every 6 months. She argued at the P&Z Commission hearing that the future land use map is the right map because it can be changed. The zoning maps cannot change, you can't change a zoning map without noticing the property owner specifically. The Board has the power to change the comp plan map without noticing people individually. She argued that you should not change the comp plan map - find a different map and make it that map that gets amended as part of the process.

Aaron Williams said the intent of the APA map was to give an illustration of the parcels that are potentially eligible to opt in for the APA ordinance under the criteria that was presented before it went to the P&Z Commission. The criteria are:

- The land must be at least 5 contiguous areas
- Must be agricultural in use
- Must be actively used for agricultural production
- Must be appraised as agricultural land and have a current agricultural tax exemption
- Must be designated as agriculture on the comprehensive plan and zoned as agriculture on the zoning map.
- The land cannot be within ½ mile of a city's area of impact as well as the ownership parcel must be one ownership.
- The parcels that are highlighted green are potentially eligible although it does not guarantee they will be in an APA;
- The parcels that are highlighted purple illustrate BLM land and federal/state lands.

Interim DSD Director Gibbons said we have not created a new draft of the proposed ordinance between what was said at the P&Z Commission hearing and this Board's hearing that reflects what was said at the P&Z Commission hearing. Staff brought the proposed ordinance to the P&Z Commission for a recommendation and potential amendment recommendations and then brought the same proposed ordinance to the Board for consideration and it has the ultimate decision to add or remove criteria and other issues that were spoke of by the P&Z Commission. Staff did not feel it was appropriate to update the proposed ordinance just because it was at the P&Z Commission. It is the same proposed ordinance and that was the mechanism they chose from the start and that's where we are today. Commissioner Holton said the Board has a signed document from the P&Z Commission Chairman and it refers to the original document and to the findings of fact, conclusions of law and their recommendations to amendments as well as adding some allowances. The Board can access the audio record if a transcript is not available. He appreciates Ms. Smith's concerns but he does not believe the process is unusual.

Wayne Rundall asked the Board to take the recommendations of the P&Z Commission and incorporate as much as it can into the APA.

Stan Siewert is a farmer who has a cropland interest in the green area and outside of it. He is within five miles of the City of Greenleaf and said their impact area is huge as it goes from Ustick Road to almost Malt Road which is five miles from the core of Greenleaf. If a property owner is going to put a restriction on their property it would be normal for someone to incentivize them to do that, and a good example of that can be found south of Stanley where there is an expansive view of the Sawtooths where landowners were paid to keep that scenic view open and not clutter it with houses. If he were to put some property in the preservation program it would cost him application fees which he finds curious. If there is an advantage to join the program wouldn't you want people to join it and preserve agriculture whether or not they are five miles from Greenleaf? With regard to solar, he thinks it will become popular for pumping, moving water around and he would not want that restricted to have solar to save on the power bill. Mr. Siewert said Canyon County has done a good job and he feels very much able to farm.

Upon the motion of Commissioner Brooks and the second by Commissioner Van Beek, the Board voted unanimously to close public testimony. The Board reviewed the P&Z Commission's proposed amendments to the ordinance:

Remove references to or requirements pertaining to the following:

- a. **The prohibition of APA eligible properties within areas of city impact areas:** Commissioner Holton said it's at the Board's discretion about the areas of impact and right now we have it ½ mile further than the areas of impact. We could go to the areas of impact border but his concern is that areas of impact are a written agreement between two public entities on how to deal with land and it takes both of those entities to sign that agreement to modify it. A recent bill is requiring that all cities area of impact get reviewed this year and so we have the opportunity by the end of this year to negotiate and consider putting the APA within the area of impact but he is uncomfortable with that. Chief Civil Deputy PA Bazzoli said the statute authorizes the APA Commission to also make recommendations down the road, but the Chairman has brought up a very good point is if this land is within the area of impact you have to address that with the cities. It's a discretionary call, there is nothing in the statute that says you can have this within there, or you must not. Deputy PA said the P&Z Commission has asked us to remove the references or requirements that prohibit APA eligible properties within the areas of city impact. One middle ground might be to make that a decision criterion or a piece of information to consider that way if you have an area of impact boundary that includes ag land that needs to be preserved and the city has been notified and they are in agreement and the County is in agreement then you would have that tool rather than an outright prohibition. Commissioner Van Beek thinks that is a good suggestion. Commissioner Brooks will consider it.

- b. **Remove requirements to provide soils classification/survey data:** Commissioner Holton said we have a fiduciary responsibility to make a clear data to make decisions on and he cannot see why anything there is a different requirement than we do on other land use decisions. We are going to deal with a wide variety of soil types and it has been made clear that you have to broaden your idea of what good soil is. He is good with leaving it in and not removing item b. The Board agrees.
- c. **All references to 'contiguous':** Commissioner Holton said the compromise is we can allow a landowner to apply for multiple parcels within the same application, but the parcels do not have to be contiguous they just have to be by that landowner and contiguous. Chief Civil Deputy PA Bazzoli said the land has to be five acres contiguous and farmed for the previous three years. We cannot take contiguous out of that section. If someone had 200 acres somewhere and 75 acres somewhere else you could probably make that within a singular application and not have to make them pay twice. The Board can look at proximity to areas of city impact, the total contiguous acreage, proximity to existing planned utility locations, proximity to planned airport expansion, proximity to planned improvements, soil classification, water rights, and usage those are things that can be addressed within those applications. These are certain criteria established to give the Board guidance in making its decision. Commissioner Van Beek likes the idea of allowing someone to submit an application with multiple parcels, but each parcel has to meet a 5-acre minimum.
- d. **Requirement for comprehensive plan amendment:** Commissioner Holton said Keri Smith's point was on par with the authors of the bill that demonstrate they were not necessarily land use attorneys but they had good intentions. Following discussion, the Board decided to leave item d as-is. Deputy PA Wesley said that is what is written in the version of the ordinance the Board has is the comp plan map. The current version of the ordinance also ties it to the fees that are paid for the comprehensive plan map amendments. We could change that in the future or figure out the best way to do it because it doesn't specify which particular map, it says update Canyon County land use maps. The comp plan map is our most referenced map. Commissioner Holton said for the moment he is good leaving it as-is, but it's possible we may need to do a future amendment to it.
- e. **The BOCC shall not require improvements to an APA property to increase/improve compatibility:** Commissioner Van Beek said there are pieces of information missing and she would like item e expanded. We do not want property that becomes a code enforcement issue so if there are improvements that need to be made, what does that mean? Interim DSD Director Gibbons said in the essence of what was intended by this statement and in the context of what was stated at the P&Z Commission hearing, we like to avoid a condition of approval on a potential APA, an ag preservation parcel to say we will let you become an ag protected parcel but first you have to make improvements so you don't upset your neighbors. The intention is to putting more burden on a voluntary

program or a parcel that is compliant with the voluntary program and make it costly in order to qualify. Commissioner Holton is bothered by this one; he gets preserving farm ground but he doesn't get preserving the parcel that's going to be an eyesore because this is about preserving and enabling productive agriculture. He would prefer to leave it in and look for recommendations. We want this to work for everybody and create a class that could end up being unaccountable to the rest of the community. He needs more information and he needs it to be clearer than what it is right now. The Board agrees.

- f. **Minimize fee/expedite the approval processes:** People need to pay their own way through the process and have a full awareness and understanding of the implications of tying up a piece of ground for 20 years. The Board is satisfied with what the legislation has given.
- g. **Remove requirements pertaining to history of ownership:** Commissioner Holton has no qualms with requiring the history of ownership. It is important to understand the history particularly given the challenges for today's farmer.
- h. **Remove item b in section 10:** Commissioner Brooks disagrees with the P&Z Commission's recommendation, and said the intent in the legislation is for ground in the agricultural area so why would we allow something to be included in the APA that is not allowed by our ordinance in an agricultural zone? The Board agrees.
- i. **DSD Staff reminders to property owners as expiration nears:** Commissioner Brooks said 20 years is a long time and he thinks a reminder notice is a good idea, and he has not heard legal say this would be inappropriate or would place the County in a position of liability. Chief Civil Deputy Pa Bazzoli said Keri Smith mentioned liability for the County. If we do not notify the landowner then the property automatically goes to an additional 20 years. If we do notify them and they choose to do nothing it goes to 20 years. If we do not notify them and they want to change it goes to 20 years. The burden is on the landowner to decide what to do, but he doesn't think the County bears any liability for sending a reminder/letter a year or 6 months prior asking them to make a decision on what they want to do with their property. Deputy PA Wesley said he is struggling to find that notification requirement in the draft ordinance. Commissioner Van Beek said the language is not in the ordinance, it's something the Board added to the draft ordinance that was sent to the P&Z Commission and they requested it be removed. Interim DSD Director Gibbons said whether it's included or not, DSD will need to track these going forward and it could be a policy within a policy for the Director to direct staff to notify a landowner or not, it doesn't have to be part of an ordinance to accomplish that. The Board will include this language in a motion.
- j. **Remove all application evaluation criteria not specifically required by statute (items b-m) with the exception of item i (compatibility and add water rights data to this item):**

Commissioner Brooks is not in favor adopting this recommendation. Chief Bazzoli said the water rights data is already there, but you could separate it to its own sub-letter. Commissioner Van Beek is fine with it being left in.

The P&Z Commission recommended adding allowances for the following:

- a. **Allow buildings & structures for use specifically for the occurring agricultural use, i.e., crop storage buildings, shops, and other ag-related facilities:** Commissioner Holton said the ability to make an application for an ag building on a person's land is not even being considered so why are we calling it out separately? He wants to strike it.
- b. **Allow renewal energy systems appropriately sized for the APA:** Commissioner Holton referred to the words *appropriately sized* and said he is unaware of any ag use that uses solar cells for pumping mechanisms because even on the longest day of the year for solar cell production if you have 10 hours of production, what are you going to do with the other 14 hours that your water was ordered on closed down the drain. Our love with solar renewable energy without a battery system is at the kindergarten stage and he believes this is before its time. He is not interested in a solar farm just so you can do something with it. Energy systems are loved by the public but it is very difficult to engineeringly produce something that really makes a difference. Commissioner Van Beek supports his position.
- c. **Allow autorenewal:** Commissioner Holton said it's already in the statute. Chief Bazzoli said in our proposed document in the first paragraph on Page 3 states *"If the proposed APA is within one mile of the city's area of impact boundary, that city or cities shall be notified of the application and given a minimum of fourteen (14) days to provide comment. Comments from a city shall be considered in context of the below listed criteria."* Do we want to modify or change that? Commissioner Holton said this is part of the problem with the APA, somebody wrote land use law and did it in a vacuum of what all of the other standard timing is and it is going to create its own problems. It should have been written equal to or similar to other land use law. Fourteen days is an anomaly on a requirement to receive a comment on an impacted agency. Chief Bazzoli said the requirement is not within the APA draft specifically, this is something Canyon County put into its proposed ordinance but the Board needs to determine if it wants to address it. Deputy PA Wesley said the P&Z Commission asked to remove references and requirements pertaining to the following prohibition of eligible properties within the area of impact but the ordinance itself never prohibited that, it just required notice and consideration of the issue. Interim DSD Director Gibbons said the clause speaks to if the proposed APA is within a mile of the area of city impact - not inside it, and the cities get a chance to comment. Commissioner Holton said you could have it as part of the application procedure that you send that out and you don't deem the application complete until after the 14-day period giving that public entity the opportunity to respond. Chief Bazzoli said it is part of the original application process

before it gets to the APA Commission. The ordinance will be drafted with DSD looking at the statutory requirements. The Board is comfortable with the language.

Commissioner Brooks said on item a for what was recommended to be removed, he prefers to leave it as-is and then after we have gone through the gymnastics of amending areas of city impact boundaries with the cities, if we feel it's necessary. Commissioner Holton said this is the first time the state legislature has demanded all areas of impact be reviewed in an 18-month period, and we are already 6 months in and we have a lot of work to do and a lot of renegotiations. He hears the concern and intent from the public testimony, but nobody brought up the fact we are reviewing the areas of impact and it's a body of work that is being required by the legislation and we then have the opportunity to talk to each one and how the Board could come back to the APA and amend that and make it clear. Commissioner Brooks wants to strike that and move forward after the ordinance is in place to evaluate the implications? Commissioner Van Beek said she could support that. Commissioner Holton said that will give some stability to this and allow the County and cities to go through the process. Commissioners Holton and Van Beek have no objections to the ng to the P&Z Commission's November 21, 2024 findings of fact and conclusions of law. Commissioner Brooks said the Board didn't adopt any of P&Z Commission's recommendations, but he would like to adopt the draft ordinance and add language regarding DSD staff sending reminders to property owners as the expiration nears. Commissioner Van Beek asked if that would include that the applicant can submit on the same application multiple parcels without additional fees? Commissioner Holton said we discussed that it could be just a policy part of the application. Commissioner Van Beek supports what Commissioner Brooks is proposing. Commissioner Brooks made a motion to adopt the Agricultural Protection Act Ordinance that the Board submitted to the P&Z Commission with the addition that DSD staff is to reach out to the owner 15 months in advance to see if they want to continue with the APA designation for their property. Commissioner Van Beek seconded the motion. Commissioner Brooks said he chose 15 months because they are required to let the County know 3 months or 90 days in advance before the termination of their APA so 15 months allows them a year to have a heads up and let the County know. Deputy PA Zach Wesley said they will work on that language and bring it back and make it clear that it's the burden of the property owner and this is just an additional friendly reminder, it will not impact their rights to remove themselves or not. It will be a courtesy notice. The motion carried unanimously. Upon the motion of Commissioner Brooks and the second by Commissioner Van Beek, the Board voted unanimously to adjourn at 3:29 p.m. An audio recording is on file in the Commissioners' Office.