

**BOARD OF ADA COUNTY COMMISSIONERS
MINUTES OF THE PUBLIC HEARING
WEDNESDAY, MAY 9, 2012
6:00 P.M.**

The Board of Ada County Commissioners (Board) met this date in the Ada County Public Hearing Room of the Ada County Courthouse Complex. Staff present: Megan Johnson, Richard Beck and Brent Danielson, Development Services; and Amber Ellis, Prosecuting Attorney's Office. Minutes Recorder: Judy Morris.

I. IN THE MATTER OF CALL TO ORDER:

Commissioner Rick Yzaguirre called the meeting to order at 6:00 p.m.

II. IN THE MATTER OF ROLL CALL:

Commissioners Rick Yzaguirre and Sharon M. Ullman were present.

III. IN THE MATTER OF CHANGES TO THE AGENDA:

There were no changes to the agenda.

IV. IN THE MATTER OF UNFINISHED BUSINESS:

ACTION: S. ULLMAN MOVED TO REMOVE THE UNFINISHED BUSINESS FROM THE TABLE FOR CONSIDERATION. R. YZAGUIRRE SECONDED. S. ULLMAN, AYE, AND R. YZAGUIRRE, AYE. THE MOTION CARRIED.

- 1. 201101231 CU-V WHEELER FARMS INC.:** Application to install a freestanding wind tower and request a variance for the building setback and the DBA. The property contains 75.590 acres and is located at 8385 S. Eagle Rd., Section 8 2N 1E. *(Public Hearing Open; Tabled from 2/15/12)*

R. Yzaguirre advised that the Public Hearing on this application was left open.

S. Ullman stated that the Board was advised that Applicant requested this item be tabled to July 11, 2012.

ACTION: S. ULLMAN MOVED TO TABLE APPLICATION NO. 201101231 CU-V WHEELER FARMS INC. TO JULY 11, 2012. R. YZAGUIRRE SECONDED. S. ULLMAN, AYE, AND R. YZAGUIRRE, AYE. THE MOTION CARRIED.

- 2. 201101223 ZOA ADA COUNTY:** A zoning ordinance text amendment to amend Ada County Code Title 5, Chapter 7, Section 2, and Title 8, Chapter 5, Section 3, Subsection 62. The request is being made to add a definition of domesticated animal, and to clarify that written verification is required for livestock being raised for an educational purpose. *(Public Hearing Open; Tabled from 4/11/12)*

R. Yzaguirre advised that the Public Hearing on this application was left open.

R. Beck presented the Staff report.

Elizabeth Krause stated her name and address for the record. She said she believed the issue was addressed last year without amending the ordinance and requested Staff explain what changes were being proposed to the existing ordinance.

R. Yzaguirre explained that the issue had been ongoing for at least the past year and a half. He stated that Staff offered what they believed to be a solution to the proposed language at the April 11, 2012, hearing. He said the ordinance was tabled to the May 9, 2012, hearing to allow additional public input to the proposed language.

E. Krause inquired what language was proposed at the April 11, 2012, hearing. R. Beck discussed the specific changes that were made to the ordinance proposed a year earlier. E. Krause then read a letter supporting raising chickens and roosters.

S. Ullman advised E. Krause that the ordinance did not apply to areas within incorporated cities. She stated the ordinance was intended to address unincorporated

Ada County on lot sizes smaller than one acre, such as subdivisions where people have chosen to live outside of cities but, not necessarily, in the country. She said the ordinance was drafted to protect the rights of the property owners bothered by the noise.

Bryan Carter stated his name and address for the record. He discussed other laws he believes that conflict with Idaho code. R. Yzaguirre directed B. Carter to address the issue at hand. He stated that he objected to the proposed amendment to the existing ordinance.

Bret Friend stated his name and address for the record. He presented testimony objecting to the proposed amendment to the existing ordinance. He stated he believed the proposed language would add more levels to the county government in the administrative side and the code enforcement side.

S. Ullman explained that Deborah Tackman was the only person that appeared at the April 11, 2012, hearing regarding this issue. She stated that the item was tabled to May 9, 2012, to allow her an opportunity to draft language that would address the specific issue of a neighborhood being disrupted by somebody who has unruly animals making noise night and day. She explained that the proposed ordinance is not to grow government or pass unnecessary laws, but to address the problem and the concerns within a neighborhood where lives are being disrupted.

Scott Schaefer stated his name and address for the record. He presented testimony objecting to the proposed education provision of the ordinance and submitted written testimony for the record. The written testimony was entered as Exhibit 19. He explained that he believed the language places an unnecessary burden for record keeping and administration of the ordinance.

S. Ullman asked S. Schaefer how he thought the Board could proceed to ensure that all individuals would have a level playing field to provide the same documentation to prevent the chance of someone possibly being singled out and/or harassed.

S. Schaefer stated that leveling the playing field wouldn't necessarily prevent an individual from being harassed, as the offender could still comply with education provision. He suggested that language under the education provision be rewritten to provide that documentation would be required upon request.

Frank Gamma stated his name and address for the record. He stated that he was at the April 11, 2012, hearing but did not testify. He said that in thirty years at the same address, he had one neighbor complain about the noise from his rooster disturbing her art in the middle of the afternoon. He explained that his covenants allowed him to raise up to 100 chickens at his location. He said Boise City stated that a rooster was not a chicken and required him to get rid of it. He said that the nuisance law tends to give unreasonable individuals a tool to punish responsible parties without merit. He suggested a process be established to require a petition be submitted to confirm that a noise problem does exist to avoid giving one person the power to unfairly seek enforcement.

S. Ullman asked Staff whether the ordinance addressed noise levels during the day or according to the noise ordinance which is effective beginning at 10:00 pm. R. Beck responded that he would have to review the ordinance.

Don Howard stated his name and address for the record. He presented testimony objecting to the language of the education provision of the ordinance.

S. Ullman stated that the proposed ordinance has not been passed. She explained that the proposed language was drafted by Staff to receive public input. She said the Board was looking for a solution that works for everybody and was open for constructive suggestions for the proposed language.

Melt Esquibel stated his name and address for the record and presented testimony objecting to the entire amendment. He submitted documentation for the record, which was entered as Exhibit 20. He asked the Board if they believed that livestock was personal or private property.

The Board stated that was an interesting question, but they did not have an answer. He discussed that he believes that livestock, by definition, is personal property and therefore could not be controlled under an ordinance.

Marshall Boisselle stated his name and address for the record. He presented testimony objecting to the proposed ordinance. He stated he and others raised chickens and roosters to sustain food for their families.

Angie Chester stated her name and address for the record. She advised the Board that she was a parent of a child in 4H and raised animals for that purpose. She explained that she was concerned that once the child is no longer in 4H, they would be forced to get rid of the animal(s) or reclassify it to fit within the ordinance so they could keep the animal(s). She inquired if the ordinance was being proposed to fund the government or other entity.

S. Ullman responded that the ordinance was not intended, in any way, to raise funds for the government. She also advised that the Board had not taken the allowable three percent property tax increase for the past six years. She again explained the reason the ordinance was being amended.

Deborah Tackman stated her name and address for the record. She presented testimony objecting to the text amendment and provided possible alternatives to addressing the problems without amending the existing ordinance language.

Christy Tarbet stated her name and address for the record and presented testimony objecting to the amended ordinance.

Chuck Peterson stated his name and address for the record and presented testimony objecting to the amended ordinance.

S. Ullman requested the hearing be left open to allow Staff to review the proposed language and work with the public to revise the language or address the issue in another manner.

ACTION: S. ULLMAN MOVED TO TABLE APPLICATION NO. 201101223 ZOA ADA COUNTY TO JULY 11, 2012. R. YZAGUIRRE SECONDED. S. ULLMAN, AYE, AND R. YZAGUIRRE, AYE. THE MOTION CARRIED.

V. IN THE MATTER OF NEW BUSINESS:

- 1. 201200437 SEW CITY OF BOISE:** The City of Boise is requesting approval of a sewer extension on Thayen Place. 3044, 3045, 3076, and 3077 S. Thayen Place, Section 27 3N 1E.

R. Yzaguirre opened the public hearing.

B. Danielson stated that Jim Pardy of Boise City Public Works was present to explain the project and stand for questions.

Jim Pardy stated his name and business address for the record. He explained the project and stated all parties were in favor of proceeding, although only one party was going to connect at this time.

R. Yzaguirre closed the public hearing.

ACTION: S. ULLMAN MOVED TO APPROVE APPLICATION NO. 201200437 SEW CITY OF BOISE, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED IN THE STAFF REPORT. R. YZAGUIRRE SECONDED. S. ULLMAN, AYE, AND R. YZAGUIRRE, AYE. THE MOTION CARRIED.

- 2. 200700016 S-TE AVIMOR PARTNERS, LLC:** An application for a Board granted time extension for Avimor #3. The property contains approximately 378.37 acres and is located at 18400 N. Horseshoe Bend Rd. (Highway 55), Sections 7, 8, 17, and 18 5N 2E.

R. Yzaguirre opened the public hearing.

B. Danielson presented the Staff report.

Dan Richter, Managing Partner of Avimor Partnership, LLC, stated his name and address for the record. He presented an overview of the Avimor Partnership and development.

R. Yzaguirre closed the public hearing.

ACTION: S. ULLMAN MOVED TO APPROVE APPLICATION NO. 200700016 S-TE AVIMOR PARTNERS, LLC, AND ADOPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW INCORPORATING THE CHANGES TO THE CONDITIONS OF APPROVAL CONTAINED IN THE STAFF REPORT. R. YZAGUIRRE SECONDED. S. ULLMAN, AYE, AND R. YZAGUIRRE, AYE. THE MOTION CARRIED.

VI. IN THE MATTER OF ADJOURNMENT:

There being no further business to come before the Board on this date, the meeting was adjourned at 7:20 p.m.

Rick Yzaguirre, Chairman

ATTEST:

Christopher D. Rich, Ada County Clerk