



# KOOTENAI COUNTY

## BOARD OF COMMISSIONERS

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### Meeting Minutes

#### Community Development

July 13, 2023

6:30 P.M.

451 N. Government Way, Administration Building, Meeting Room 1A/B

The Kootenai County Board of Commissioners: Chair Duncan, Commissioner Brooks, and Commissioner Mattare met to discuss the following agenda items.

Staff present were Director David Callahan, Planning Manager Ben Tarbutton, Civil Deputy Prosecuting Attorney Pat Braden, Deputy Clerk Reba Grytness and Deputy Clerk Jennifer Conner.

- A. **Call to Order/Opening Remarks** – Chair Duncan called the meeting to order at 6:33 p.m. Read the Public Hearing Code of Conduct.
- B. **Changes to the Agenda** – Deliberations will be scheduled for August 10, 2023 at 10:00 a.m.
- C. **Poll for Conflicts of Interest** – There were no conflicts of interest.
- D. **Public Hearing**  
- ***ORA22-0001 Cd'A Reservation Area-Wide Re-Zoning*** - Director Callahan states this case is 39 sq. miles which is roughly 3% land area of Kootenai County. This is also a legislative hearing meaning the Board is not bound by the strict rules of the quasi-judicial process. The Board is setting policy. There are 4 options; follow the Planning Commissions recommendation to rezone all 20 acres or more and currently zoned rural; you can extract out the opposition; deny the request; or remand back to the Planning Commission if you believe an amendment to the Comprehensive Plan might be warranted. It is recommended to categorically exclude any PUD that has already been approved which are overlays of existing zoning. Pat Braden, Civil Deputy Prosecutor states options 2 or 3 would require a second hearing before the BOCC. Director Callahan states there is word on social media claiming this rezoning would exclude people from taking timber exemptions, which Mr. Braden states that is an untrue statement. The timber exemption is based on tax statutes, not land use regulations. Aaron Qualls, consultant with SCJ Alliance goes over the overall process and timeline for how this came to be in front of the BOCC. Approximately 50% of the area is under Tribal ownership, and as a sovereign nation the Tribe has the

authority to challenge uses that threaten tribal political integrity, economic security, or health and welfare on reservation land. The proposal is to change the zoning from Rural to Agriculture, which are relatively similar except in the Agriculture zone subdivisions are not allowed except the subdivision exemption. Though the minimum lot size is 5 acres, you would not be able to subdivide to 5 acres. According to the Future Land Use map, a lot of the area to the west is currently zoned Agricultural which has the same Land Use Designation as much of the area being proposed changed to Agricultural, which is the Resource Recreation Future Land Use Designation in the Comprehensive Plan. To the north is a Country Designation, which is described in the Comprehensive Plan to allow residential subdivisions. The Planning Commission recommended with a 5-1 vote to rezone all parcels, 20 acres or larger from Rural to Agricultural on April 6, 2023, even if the parcel is located in the Country designation. The reason was based on considerations of "health, safety, and welfare and a clear public purpose as expressed by the Cd'A Tribe", rather than on County future land use designation. When a non-tribal member owns on the reservation, the County's zoning is effective.

**Applicant's Presentation** – Applicant's Representative, Tyrel Stephenson introduced some of the Tribal members. The character and beauty of the area the Tribe holds dear and wants to preserve it. The water shortage is an issue. The City of Worley's main well ran dry. The clay and basalt are unpredictable and therefore water is in short supply. The Tribe would rather work with the community and County to solve problems, as they are a part of the community as well. At the Open House on July 19, 2023, multiple options were presented including parcel size and use, as well as tax exemptions.

Caj Matheson states how critical it is to work with the neighbors to find solutions that work for everyone.

Gene James, Vice Chair of the Cd'A Tribe states the leadership has always stood on their actions. The Tribe not only represents the 2600 members, but all life, and water that resides not only within the boundaries of the reservation, but within our aboriginal territories which we stand upon. We do not want to see this land cut up for the monetary benefit of a select few who will move on when there is no more land and water to sustain the people that live here. Some individuals that own large shares of land in this area want to break up their land, but have tried to get agricultural leases to work our land and profit off our large chunks of land. They want to cut up their land, but do not want us to cut up ours so they can profit from both. Once the resources are gone, there is no getting them back.

**Public Comment –**

Wade Entezar-In Favor: Live on reservation with 160 acres. Believe in sustainable growth. Want wife and kids to live the lifestyle they get by living on the reservation. The reservation keeps getting smaller, and we need to respect the wishes of the Tribe and keep it as a sovereign nation.

Tim Weston-In Favor: Live on reservation and friends with Tribal members. We have all seen the increased traffic, and the outsider attitude of wanting to buy

property to sell it. Feel grateful the Tribe is standing up for their land, and they should have the right to keep it the way they want it.

Laurin Scarcello-Neutral: Strong advocate of open space. Incentives to promote open space. Crafted an open space plan based on aquifer protection. All the mechanisms in place. Entered exhibit B-1001.

Ed DePriest-Neutral: Concerns regarding Timber Exemption. Will the property owners lose their exemptions? No. Clear concise factual truth needs to be put out there.

Danielle Elizonda-Neutral: Bought land in Worley to homestead with family. Has to subdivide to build for family members because of County rules, but Tribe has stonewalled her. Did not know this was going on. Unsure what her options are.

Robert Bonuccelli-Opposed: Own 154 acres purchased 3 years ago. Detrimental effect on all private property not owned by Tribe. Downzoning without our approval. Would give up Ag exemption for the zoning to remain rural.

Steve Syrcle-Opposed: Entered exhibits B1002 and B1003. Practicing engineer for 30 years. With Susan Weeks, represent the Buell Family whom own several parcels in the area. Reached out to 54% property owners for their opinions on this rezone. 73% of acreage are opposed. Decrease in private property value.

Herb Milhorn-Opposed: Farmer owning 800 acres. 3<sup>rd</sup> generation. Property rights belongs to the land owners and not the County's right to take that away from us.

Blaine Holt-Opposed: Against the 5<sup>th</sup> amendment. Diminishes value of land. Positive incentive based solutions.

John McFaddin-Opposed: Not pro or con, just wanting clarity. 5 acre minimum lot size is a lie.

Jeff Tyler-Opposed: 9 years ago went into water Judaification. Federal government siding with the Tribe. Tribe wants to control all the water, like in Montana. 157 acres per Tribe member.

Barry Ballew-Opposed: Read statement into record

Sandy Young-Opposed: The 2020 Comprehensive Plan has a fundamental commitment to property rights. 17 acre proposed housing development by the Tribe just south of this area.

Chuck Crites-Opposed: His parcel was zoned Rural which was reflected in the purchase price. Not viable for farming. Does not have either timber or Ag exemptions.

Baron DeSmet representing Kroetch Land & Timber and Stimson Lumber Co- Opposed: 719 acres and 400 acres affected. Proposal not consistent with the Comp Plan, and these 2 companies do not volunteer to downzone.

John Stewart-Opposed: Own 600 acres. Read letter into the record.

Charles Currier-Opposed: Submitted exhibit B-1004

Allen Zasadny-Opposed: Came to homestead 8 years ago. Started the process of subdividing, but got shut down. Want to keep the land within their family.

John Lampert-Opposed: Have farmed the Tribes land. Consider the County as one County. Can't sell a few acres for someone to move to farm the land. Some of this land is not farmable.

Jeff Bloomsberg-Opposed: Opposed to the County treating me differently than someone who doesn't live within the reservation boundary.

Russell Lyster-Opposed: Do not want to be told what to do. Discriminatory.

Dave Lampert-Opposed: Like reducing the population, but I can't vote in the Tribe's elections so they should not be able to determine what we all do. Why give Black Rock and exclusion and not a small farmer. Follow the Comp Plan, and give ComDev more people to work.

Ben Seale-Opposed: Want to split the 20 acres to 10 for his son. Subdivisions are allowed and we trusted the Comp Plan when we bought.

Dale Seale-Opposed: Desire and goal is the same as the Tribe, but this proposal is discriminating against us. The County paying \$75k for outside consulting company who is focusing on the downzoning from the tax payers pockets against our will.

Sarah Seale-Opposed: Unconstitutional. Rural is twice the value as Agriculture, so we would lose.

Connie Brand-Opposed: Purchasing land is a great investment. Do not plan to subdivide. What will the County lose with taxes by down-zoning. Without the Tribe's consent, nothing goes through. Has 3 wells and got 100 gallons/min.

Tiffany Seale-Opposed: Tried reaching out to Tribe regarding subdividing with no calls back. Got everything in order, and before closing on the property were told they could not subdivide.

Joel Seale-Opposed: Tribe does not have authority over private property on the reservation. Montana vs. US.

Jenifer Boguslawski-Opposed: Bought property with intent to keep it without subdividing. If they want to tell me what I can do, I should be able to tell them what they can do.

**Applicant's Rebuttal** – Being a legislative hearing, a rebuttal is not required. The Board agrees to allow it.

Tyrel Stephenson: This land is being treated differently because it is on the reservation. Anyone who bought land here and got Title Insurance got a Schedule B which is an exemption to coverage for a Title policy.

Gene James: The leadership want to work with the County in conjunction to better this land.

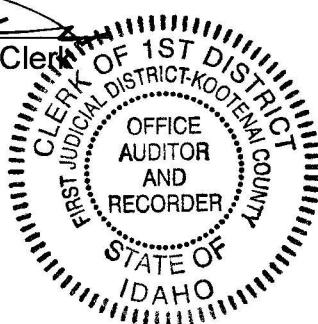
The boundary of the reservation does go east, but that land is not in contention and is owned by the Federal government. Already zoned Agriculture. Clear, Useful and Significant public purpose needs to be met as a combination.

**G. Adjournment** – Chair Duncan adjourned the meeting at 8:56 p.m.

Jennifer Locke, Clerk

By: 

Jennifer Conner, Deputy Clerk



BOCC: 

Chairman, Leslie Duncan

Leslie Duncan, Commissioner - Signed 8/22/2023