

COUNTY COMMISSIONERS' PROCEEDINGS

WALLA WALLA COUNTY, WASHINGTON

originals not on file
545

Term

Walla Walla, Washington, April 25,

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The Board met, pursuant to adjournment, Commissioners Cox, Walker and Hanson being present.

In the matter of the appointment)
of J. R. Fuller as Deputy Sheriff)

ORDER.

WHEREAS, J. R. Cummins having appointed J. R. Fuller as Deputy Sheriff,

IT IS ORDERED by the Board, all members concurring, that said appointment be approved.

In the matter of a Right-of-way)
Easement from Northern Pacific)
Railway Company,)

RESOLUTION.

IT IS HEREBY RESOLVED by the Board, all members concurring, that an easement from the Northern Pacific Railway Company to cover the existing crossing and longitudinal encroachment of the County Road at Tracy be signed and accepted by the Board.

IT IS FURTHER RESOLVED that this easement be recorded in the office of the County Auditor and Filed in the files of the Board.

ORDINANCE NO. 25

AN ORDINANCE RELATING TO SALES OF REAL ESTATE AND LEVYING AN EXCISE TAX THEREON.

BE IT ORDAINED by the Board of County Commissioners of Walla Walla County, State of Washington, that Ordinance Number 24 is hereby amended to read as follows:

SECTION I.

Definitions: "Sale" shall have its ordinary meaning and shall in addition include any conveyance, grant, assignment, quit-claim, or transfer of ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such conveyance, grant, assignment, quit-claim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein, or any contract under which possession of the property is given to the purchaser or any other person by his direction while title is retained by the seller as security for the payment of the purchase price, but shall not include transfers by gift, devise or inheritance, nor a sale by the United States or the State of Washington, nor a transfer by appropriation or decree in condemnation proceedings brought by the United States, the state, or a municipal corporation, nor a transfer in compliance with the terms of any lease or contract upon which a tax as imposed by this ordinance has been paid or where such lease or contract was entered into prior to May 1, 1951, nor to the sale of any grave or lot in an established cemetery, nor a mortgage or other transfer of an interest in real property merely to secure a debt, nor the assignment thereof; PROVIDED, any transfer or conveyance pursuant to any proceedings for the foreclosure of any mortgage, lien or other incumbrance, except a satisfaction thereof, whether executed by the sheriff by public sale or by anyone by public or private sale to satisfy a debt shall be subject to this tax.

The assignment or other transfer of a seller's interest in a contract for the sale of real property or any estate or interest therein, even though accompanied by a conveyance of the seller's interest in the real property shall not be taxable under this ordinance where such assignment or transfer was made on or after September 6, 1951, but where such assigned contract is forfeited, foreclosed, or otherwise not performed, and the assignee thereby obtains the interest of the purchaser therein, a taxable sale of real property shall then be deemed to have occurred and the balance then due on such contract at the time of forfeiture shall be deemed to be the selling price.

PROVIDED, from and after June 9, 1955, as used in this ordinance, the term "sale" shall have its ordinary meaning and shall include any conveyance, grant, assignment, quitclaim or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such conveyance, grant, assignment, quitclaim, or transfer and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person by his direction, which title is retained by the vendor as security for the payment of the purchase price.

The term shall not include a transfer by gift, devise, or inheritance, a transfer of any leasehold interest other than of the type mentioned above, a cancellation or forfeiture of the vendee's interest in a contract for the sale of real property, whether or not such contract contains a forfeiture clause, or deed in lieu of foreclosure of a mortgage or the assumption by a grantee of the balance owing on an obligation which is secured by a mortgage or deed in lieu of foreclosure of the vendee's interest in a contract of sale where no consideration passes otherwise or the partition of property by tenants in common by agreement or as the result of a court decree any transfer, conveyance, or assignment of property or interest in property from one spouse to the other in accordance with the terms of a decree of divorce or in fulfillment of a property settlement agreement incident thereto, the assignment or other transfer of a vendor's interest in a contract for the sale of real property, even though accompanied by a conveyance of the vendor's interest in the real property involved, transfers by appropriation or decree in condemnation proceedings brought by the United States, the state or any political subdivision thereof, or a municipal corporation, a mortgage or other transfer of an interest in real property merely to secure a debt, or the assignment thereof, any transfer or conveyance made pursuant to an order of sale by the court in any mortgage or lien foreclosure proceeding or upon execution of a judgment, or deed in lieu of foreclosure to satisfy a mortgage, a conveyance to the federal housing administration or veterans administration by an authorized mortgagee made pursuant to a contract of insurance or guaranty with the federal housing administration or veterans administration, nor a transfer in compliance with the terms of any lease or contract upon which the tax as imposed by this chapter has been paid or where the lease or contract was entered into prior to the date this tax was first imposed, nor the sale of any grave or lot in an established cemetery, nor a sale by or to the United States, this state or any political subdivision thereof, or a municipal corporation of this state.

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H-74857. Baslee Book Mfg. Co. 11287.

(Continued)

"Seller" shall include any individual, assignee, receiver, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, corporation, municipal or quasi-municipal corporation, association, society, or any group of individuals acting as a unit, whether mutual, co-operative, fraternal, non-profit or otherwise, but shall not include the United States or the State of Washington:

Political subdivisions of the State of Washington and municipal corporations of this state shall likewise be excluded from the term "seller".

"Selling Price" shall mean the consideration, in money or anything of value, paid or delivered or contracted to be paid or delivered in return for the transfer of the real property or interest therein and shall include the amount of any lien, mortgage, contract indebtedness, or other incumbrance given to secure payment of the purchase price or any part thereof, or remaining unpaid on such property at the time of such sale, including the amount of any lien or encumbrance existing against the property and agreed to be paid by the purchaser, but shall not include the amount of any outstanding lien or encumbrance in favor of the United States, the state, or a municipal corporation for taxes, special benefits, or improvements,

SECTION II.

There is hereby levied and there shall be collected by the Treasurer on each sale of any real property situated in Walla Walla County a tax equal to one per cent of the selling price.

SECTION III.

The tax imposed by this ordinance shall be the obligation of the seller and the treasurer may proceed to collect the same from the seller by a civil action for debt; PROVIDED, the tax shall also constitute a lien against the real property, the sale of which is involved, until paid and may be enforced by the treasurer in the manner prescribed for the foreclosure of mortgages; PROVIDED FURTHER, an election on the part of the treasurer to pursue one remedy shall in no event operate to waive his right to pursue the other remedy until the full tax, together with interest, penalty and costs shall have been recovered.

SECTION IV.

The tax herein levied shall be paid to and collected by the treasurer who shall cause to be affixed to the instrument of sale an appropriate stamp or stamps evidencing satisfaction of the lien imposed hereunder and shall further issue a receipt acknowledging such payment which receipt shall be evidence of the satisfaction of the lien imposed hereunder and may be recorded in the manner prescribed for recording satisfaction of mortgages.

SECTION V.

No instrument of sale or conveyance, a tax on which is imposed by this ordinance, shall be accepted by the County Auditor for filing or recording until the tax shall have been paid and the stamp or stamps evidencing such payments have been affixed to the instrument, or, where no tax is levied hereunder, a stamp indicating such.

SECTION VI.

It shall be the duty of the seller, within thirty days after the date of sale, to furnish the treasurer, in triplicate, on forms to be supplied by the treasurer, an affidavit containing the full name and address of the seller, the full name and address of the purchaser, the description of the real property involved, the date of sale or other transfer, the nature of the transfer, and the sale price, which affidavit shall be subscribed and sworn to by the seller, buyer, or the agent of either, before a notary public, the treasurer, or his duly authorized deputy.

Where the transaction involves the exchange in whole or in part of any real property or any estate or interest therein or any contract right thereto for any other real property or estate or interest therein or contract right thereto, there shall be filed by or on behalf of each grantor the above affidavit, which said affidavit shall state the fair market value of the property so exchanged, and a tax shall be levied and collected as to each transfer.

Where the transaction involved is a lease with an option in the lessee to buy real property or any estate or interest therein or contract right thereto, and the selling price is not stated in the instrument, the grantor, grantee or the agent of either shall, by affidavit, state the option price intended and the tax levied hereunder shall be on such stated option price; PROVIDED, that if, upon execution and delivery of instrument of conveyance or transfer pursuant to such option, the actual consideration passing be greater than the option price stated in the affidavit filed at the time the lease with option was executed, there is hereby levied and there shall be collected under this ordinance the tax on such additional amounts prior to the time the deed is accepted for recording; PROVIDED FURTHER, that where, by the instrument of lease, the lease payments do not apply on the ultimate sales price, the tax levied hereunder shall not be payable until the option is exercised and accepted.

Where the transaction involved constitutes a sale of standing timber under this ordinance and the selling price is stated in such conveyance as being determinable in the future on the basis of footage removed or on a stumpage basis, it shall be the duty of the seller to execute and file with the county treasurer the foregoing affidavit stating, in addition to the other requirements, the legal description of the real property on which such standing timber is located and an estimate, to the best of his knowledge, of the selling price ultimately to be received and shall pay to the county treasurer under this ordinance a sum equal to one per cent of such estimated selling price, which sum shall not be credited by the treasurer to the school fund but shall be retained in a separate account. On the expiration date of such timber contract, if not extended, or at the time cutting and removal is completed, whichever is earlier, it shall be the duty of the seller to execute and file with the county treasurer an additional affidavit in the above form setting out the selling price actually paid. In the event such amount results in a tax greater than the sum theretofore paid on the estimate the seller shall pay such additional amount to the county treasurer who shall thereupon place this amount, together with the sum originally deposited, to the credit of the school fund in the usual manner. In the event such amount be less than the original estimate the treasurer is hereby directed to refund the excess payment to the taxpayer and credit the balance to the school fund as above.

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SECTION VII.

The treasurer shall retain and file the original of such affidavit and shall furnish one copy to the county assessor.

SECTION VIII.

Failure to furnish such affidavit to the treasurer within thirty days after sale shall be a misdemeanor and, upon conviction thereof, the seller shall be fined not less than ten nor more than fifty dollars.

SECTION IX.

Any person knowingly swearing/falsely to any statement of any material matter in such affidavit, shall, upon conviction thereof, in addition to any penalty imposed by the laws of the State of Washington, be fined not less than one hundred nor more than five hundred dollars.

SECTION X.

The tax imposed hereunder shall become due and payable immediately at the time of sale, and, if not so paid within thirty days thereafter, shall bear interest and penalty at the rate of one per cent per month from date of sale, which interest and penalty shall be added to the tax and likewise bear interest and penalty thereafter.

SECTION XI.

If, upon written application by a taxpayer to the treasurer for a refund hereunder, or upon examination of the records by the treasurer without such application, it appears that within one year preceding such application or examination a tax has been paid hereunder in excess of the amount actually due or upon a sale or other transfer herein declared to be exempt from tax hereunder, such excess amount or improper payment shall be refunded by the treasurer to the taxpayer. No refund shall be made with respect to any payment made more than one (1) year before the date of application or examination.

SECTION XII.

The proceeds of the tax imposed hereunder shall be credited to the county school fund monthly for distribution to the school districts entitled thereto, PROVIDED, that one per cent of the proceeds of this tax shall be credited to the county current expense fund, out of which all cost and expense of administering this ordinance, including cost of printing stamps and forms of affidavits and receipts and other forms which may be necessary, shall be paid.

SECTION XIII.

This ordinance is deemed severable and any declaration by any court that any section or sections, or portions thereof, are invalid, shall have no effect on the remainder of this ordinance.

SECTION XIV.

This ordinance is necessary for the immediate support of county government and its existing public institutions and shall take effect May 1, 1955, and shall remain in effect until and including May 1, 1956.

In the matter of the appointment of
J. P. Lenfesty as Director of
Irrigations Dist. #2 and #7.

RESOLUTION.

WHEREAS, there is a vacancy on the Board of Directors of Lowden Irrigation District No. 2 and Mud Creek Irrigation District No. 7 on account of the death of Frank H. Gardner, and

WHEREAS, the Directors of the district have recommended the appointment of J. P. Lenfesty to fill the vacancy, it is

RESOLVED BY THE BOARD, all members concurring, that J. P. Lenfesty be appointed to serve until a successor is duly elected and qualified.

The balance of the session was devoted to routine business and adjourned to Monday, May 2, 1955.

Attest:

Wladimir G. Gorman
County Auditor & Ex-officio
Clerk of the Board.

Approved:

Arthur E. Gory
Chairman of the Board of County Commissioners
of Walla Walla County, Washington.

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distance of 163.2 feet, more or less, to the true point of beginning, This tract contains 0.325 acres, more or less.

Lots Five (5), Six (6), Seven (7) and Eight (8), in Block Eleven (11), and all of Block Sixteen (16) of the amended plat of Mrs. Henderson's Addition to the City of Walla Walla, Washington, according to the official plat thereof of record in the office of the Auditor of Walla Walla County, Washington.

Also: Beginning at a point in the North line of Block Seventeen (17), of the Amended Plat of Mrs. Henderson's Addition to the City of Walla Walla, according to the official plat thereof of record in the office of the Auditor of Walla Walla County, Washington, which point is 120 feet West, measured along said North line, from the Northeast corner of said Block 17; and running thence West, along said North line, a distance of 203.5 feet, more or less, to the Northwest corner of said Block 17; thence South, along the West line of said Block 17, a distance of 216 feet to the Southwest corner of said Block 17; thence East, along the South line of said Block 17, a distance of 216.1 feet, more or less, to a point therein which is 107.9 feet West of the Southeast corner of said Block 17; thence North, parallel to the East line of said Block 17, a distance of 100 feet; thence west parallel to the North line of said Block 17, a distance of 12.1 feet to a point in a line drawn parallel to and 120 feet West of the East line of said Block 17; thence North on said parallel line a distance of 116 feet to the point of beginning.

In the matter of permits for the construction or alteration of buildings or structures.

ORDINANCE NO. 26.

RELATING to the issuance of permits for the construction or alteration of buildings or structures; providing for fees therefor; providing for exceptions; and for transmittals of copies of such permits to the county assessor.

BE IT ORDAINED by the County Commissioners of Walla Walla County as follows:

Section 1. No person, firm or corporation shall hereafter erect, construct, enlarge, shore, underpin, repair, improve, convert, or otherwise alter any building or structure in this county for which the value of the materials exceeds five hundred dollars without first obtaining a separate building permit for each such building or structure from the secretary of the County Planning Commission: PROVIDED, that there shall be exempted from the requirements of this ordinance buildings or structures lying within any incorporated city or town within this county which already requires such permits.

Section 2. To obtain a permit the applicant shall fill out a blank permit form to be supplied by the secretary of the County Planning Commission. The applicant shall include thereon:

- (a) The permittee's name and address.
- (b) A legal description of the property on which the building or structure is located or will be located.
- (c) A general description of the nature of the proposed work.
- (d) The estimated value of the materials to be used in the proposed work.

The permit form may be signed by the permittee, or his authorized agent, who may be required to submit evidence to indicate such authority.

Section 3. Prior to issuance of the permit the accuracy of the legal description included thereon shall be verified by the county secretary of the County Planning Commission. Upon payment of a fee of one dollar (\$1.00) the Secretary of the County Planning Commission shall sign the permit and shall issue the original thereof to the applicant.

Section 4. The Secretary of the County Planning Commission shall promptly transmit a copy to the County Assessor.

Section 5. Any person violating a portion of this ordinance shall be deemed guilty of a misdemeanor. Each such violation shall constitute a separate offense and shall be punishable as such.

Section 6. If any section or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such section or portion shall be deemed a separate provision of this ordinance and such holding shall not affect the validity of the remaining portions of this ordinance.

This ordinance takes effect June 9, 1955.

The balance of the session was devoted to routine business and adjourned to Tuesday, May 31, 1955.

Attest:

Walter E. Boy
County Auditor & Ex-officio Clerk of the Board.

Approved:

Walter E. Boy
Chairman of the Board of County Commissioners of Walla Walla County, Washington.