

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
Tuesday, January 7, 2014, 9:00 a.m.
Commissioners' Conference Room
Benton County Courthouse, Prosser, WA

Present: Chairman James Beaver
Commissioner Jerome Delvin
Commissioner Shon Small
County Administrator David Sparks
Clerk of the Board Cami McKenzie

Benton County Employees Present During All or a Portion of the Meeting: Deputy Administrator Loretta Smith Kely; Adam Fyall, Sustainable Development Manager; Finance Manager Keith Mercer; Personnel Manager Melina Wenner; Public Works Manager Steve Becken; County Engineer Daniel Ford; Ed Thornbrugh, Human Services; Planning Manager Mike Shuttleworth; DPA Ryan Brown; Clerk Josie Delvin; Auditor Brenda Chilton; Bob Woody and Teri Holmes, IT; Eric Hsu, Office of Public Defense.

Approval of Minutes

The Minutes of December 17, 2013 were approved.

Consent Agenda

MOTION: Commissioner Delvin moved to approve the consent agenda items “a” through “kk”, pulling “j” (Updating Fairgrounds Improvement Board’s Guidelines & Expectations). Commissioner Small seconded and upon vote, the Board approved the following:

Auditor

- a. Cancellation of Unclaimed Warrants
- b. Line Item Transfer, Fund No. 0000-101, Dept. 102

Clerk

- c. Line Item Transfer, Fund No. 0000-101, Dept. 106
- d. Contract Amendment w/WA State Employment Security Department

Commissioners

- e. Line Item Transfer, Fund No. 0305-101, Dept. 000
- f. Reappointment of S Zielinski to the Aging & Long Term Care Advisory Council
- g. Reappointment of J Wierenga to the Aging & Long Term Care Advisory Council

Facilities

- h. Contract w/Latta Technical Services for Security Consulting for Corrections Facility
- i. Line Item Transfer, Fund No. 0000-101, Dept. 110

Human Services

- k. Line Item Transfer, Fund No. 0108-101, Dept. 566
- l. Amended Agreement w/DSHS, Division of Behavioral Health & Recovery for Chemical Dependency Services
- m. Amended Agreement w/Catholic Family & Child Services for Homeless Housing Plan
- n. Agreement w/K Larsen As Community Prevention Coordinator

Information Technology

- o. Agreement w/One World Telecommunications for Circuits Upgrade
- p. Agreement w/Cerium Networks for Additional Equipment

Juvenile

- q. Contract w/J&J Security & Transport Inc for Security Services
- r. Contract w/Connections Consulting for Interpreter Services
- s. Contract w/M Rudeen for Interpreter Services
- t. Contract Amendment w/Coffey Refrigeration for Dishwasher Installation
- u. Contract w/M Trombley for Legal Indigent Representation
- v. Contract Amendment w/Dept of Social & Health Services for Selective Aggressive Probation
- w. Contract w/Tri-Cities Chaplaincy for Chaplain Services

Office of Public Defense

- x. Contract w/Pronto Process Services, Inc. for Messenger Services
- y. Agreement w/S Silverthorn Public Defense Services in Superior Court

Personnel

- z. Appointment of Paynewest Insurance As Broker for Insurance Policies
- aa. Participation Agreement w/United Employee Benefit Trust Representing Sheriff's Clerical
- bb. Participation Agreement w/United Employee Benefit Trust Representing Facilities & Parks
- cc. Participation Agreement w/United Employee Benefit Trust Representing Courthouse Union
- dd. Participation Agreement w/United Employee Benefit Trust Representing Juvenile Detention
- ee. Participation Agreement w/United Employee Benefit Trust Representing Juvenile Clerical
- ff. Participation Agreement w/United Employee Benefit Trust Representing Crisis Response

Planning

- gg. Short Plat Vacation SPV 13-04

Public Works

- hh. Public Hearing Authorization for Vacation of King Tull Road Right of Way
- ii. Agreement w/Roadwise, Inc. for De-Icer
- jj. Purchase Authorization from Roadwise, Inc. for Liquid De-Icer
- kk. Vehicle Repair Authorization from Edwards Auto Rebuild

Public Hearing – CPA 13-01 – City of Kennewick Urban Growth Area Proposal

Mike Shuttleworth said the City of Kennewick was requesting an amendment to their Urban Growth Area to add 1,263 acres to the existing Urban Growth Area to be zoned Industrial. The

Planning Commission conducted an open record hearing on the application on October 15, 2013 continued until November 12, 2013 with a request for additional information. At the November 12, 2013 hearing the Planning Commission was unable to obtain a majority to agree on a recommendation and therefore the application was being sent to the Board of County Commissioners from the Planning Commission without a recommendation.

Jerome Delvin said there was opposition from Futurewise and state agencies and asked Mr. Shuttleworth to summarize their main opposition. He said there was some question between the numbers that Kennewick and the County had related to the urban growth area and the other was this area was currently zoned GMA Agriculture with long term significance.

Commissioner Delvin said when he was a Senator he sponsored SB 5995 that addressed this issue and they set out criteria for the City to meet. He asked if the City met the requirements set out by that bill and Mr. Shuttleworth said yes.

Testimony

Anthony Muai and Greg McCormick, City of Kennewick, gave a Powerpoint presentation and briefly discussed the following UGA issues:

- Land Quantity Analysis
 - Industrial land location requirements: should be large – in the hundreds of acres; large acreage for immediate/future needs; terrain – relatively flat; direct access to major regional transportation; located in areas of low human activity; isolated from other land use categories; availability or close to water and utilities. The city’s proposal met these requirements.
- Kennewick Comprehensive Plan Amendment – main issue was lack of industrial land within the City of Kennewick
- Ag Land Conversion Discussion Points
 - Whether the land is not already characterized by urban growth;
 - The land has long-term commercial significance for agriculture - look at the classification of the soils (a portion is located within KID (but considered not-irrigatable) and the remainder have no water rights;
 - Availability of public facilities including roads
 - Availability of public services

Commissioner Delvin said if approved, they had until 2015 to amend and wanted to know how that factored into their development plan. It was stated the City had preliminary conversations with future purchasers and if approved, they would proceed to actively pursue development.

Commissioner Small asked if the City of Kennewick had done everything required and Mr. McCormick said they had done everything required by state and local law and had a very well-founded request.

John Christensen, Kennewick resident and majority property owner in the area, provided a letter into the record. He said these lands must be capable of producing agriculture and it should be economically feasible to produce on these lands. He said these lands do not meet that criteria and he had witnessed 40 years of failure by farmers with six tenants and three different landowners that were not successful. He said these landowners turned to the Conservation Reserve Program (CRP) but there was no USDA provision to continue that program which meant it will continue to be idle land, no matter what the designation. He said there needed to be common sense when designating agricultural land in the long-term. Additionally, he wanted to clarify things in the report: there had been no crop use on the majority of these acres for 29 years because they were enrolled in CRP and the farmer does not have the option for CRP because there was no provision for renewal. Additionally, the Planning Dept. stressed that significant separation was crucial but the USDA took away their use of pesticides because it was too close to populated areas and caused production costs to increase substantially; he said with the residential proximity to the ag lands they continued to have other property owners infringing on their rights.

Commissioner Delvin asked if he would have to pay to have irrigation brought to their lands and Mr. Christensen said that KID would not pump water above their canal operations and their land was above that level.

Ms. Hutchinson entered the letter submitted by Mr. Christensen as Exhibit BCCH 1.3.

Milo Bauder, Richland, said he had been a resident of Benton County for 70 plus years and this was an opportunity to have private enterprise come in for economic growth. He said the investment going in would probably all be private and the proposed UGA expansion would add 1200+ acres of very desirable land for industrial uses and met the requirements for development including available water, sewer and utilities. He said there was no agricultural use to be protected in the new area. It did not have irrigation and rain fall in the area was six inches or less per year and 11 inches were needed for wheat production. He said for the record he was speaking in favor of the UGA expansion and noted he had never seen a crop on this land and it had no commercial significance for agriculture; he provided a letter for the record.

Donna Hutchinson entered the letter into the record as Exhibit BCCH 1.4.

Rob Ellsworth, Kennewick, commercial broker with Windermere Tri-Cities said that getting commercial industrial land into Kennewick was a major priority; he represented some industrial developers that constantly talked about the need for more industrial land in Kennewick, specifically industrial with highway access, frontage visibility and city services would be a huge boon to what was needed commercially. For potential industrial space and distribution centers that land was positioned perfectly for many different uses and to be able to attract new companies and new jobs. He encouraged the Board to pass because it would be a big boost to the economy.

Bruce Hunt, Department of Commerce, said he had been working with Benton County and the City of Kennewick and other cities and stakeholders to get a good understanding for Benton County's needs for industrial lands and urban growth boundaries in this area. He said they saw

urban growth areas as a regional issue and also included industrial land, transportation to accommodate, and urban services. In part some of that was based on employment projections and population projections as well.

He said that Commerce supported and funded industry and jobs in the state and one of their priorities was agricultural industry as it was a vital part of the State's economy. One of its priorities was conservation of productive ag lands and its overall economic value to the State and Benton County. He said the laws of the State required counties and cities to conserve their agricultural lands and the ag industry and the County's designated GMA ag land was of statewide importance and protection of it was good economic policy. According to WA State Dept. of Agriculture in 2011 Washington ag contributed \$35 billion to the State as well as employing 160,000 people and contributed 11% to the State's economy. He said they didn't find that expanding an urban growth area in the agricultural land was consistent with the State's interest in protecting and conserving its agriculture or consistent with State land use laws. He said other types of industries were important and they supported those industries and jobs with both technical and financial assistance. He said they understood there were approximately 18,000 acres of industrial land in Benton County. The interest of siting new industry might be better served by investing time and resources in industrial land that was currently on the market rather than risking saturating the market with more vacant industrial land. He recommended the County review the absorption rate of past industrial developments to show a realistic rate of demand for future industry that was based on per capita needs rather than speculative assumptions on future demand. He said there were provisions in State law that would allow the County and its cities to site an industrial development outside of an urban growth area if no land was currently available inside it. There were safety valves in the State law that would accommodate a large industrial user should they receive a commitment from somebody and could not find a place for them and Commerce would assist in that. Additionally, he said it was important to keep in mind that sprawling urban growth areas were costly to the State and others. Finally, he said there was a strong need for collaboration and he would be happy to assist with that.

Commissioner Delvin said he was on the Ag Committees in the House and Senate so he was very familiar with agriculture, especially on the west side where they struggled with ag lands due to the population growth. In this area, there was probably a lot of industrial land because Richland had that nice area north and Pasco was growing. However, Benton City and West Richland were trying to get economic development and Kennewick was struggling to have big tracts of large industrial area; they were expanding and were in a bind. He said he understood the issues with ag and growth and the issues with the City of Kennewick. He said he went back through the record and saw that Commerce testified in the original legislation and stated concerns and they added some things to the House Bill to address those concerns.

Kennewick Mayor Steve Young said the Council saw an incredible need in the City of Kennewick for economic growth. He said his other job was vice-president of portfolio management with the Dept. of Energy and they handled the entire budget for the Hanford site and he believed one of the main priorities of Benton and Franklin Counties should be weaning off the need to rely heavily on federal dollars coming to the Hanford site. He stated that Kennewick's #2 priority (next to public safety) was job creation so they could become an

independent region not relying on Hanford. He said it was not the desire of the City of Kennewick to obtain significant agricultural land from anybody and they looked very hard at where they could create jobs. He said the proposed industrial area would be out of site from residents and there was enough land that they could create a lot of jobs. He stated this land would be idle once the CRP ended and so they went to work with the State (Jerome Delvin) to sponsor that bill. He said currently the land created one job and this was an opportunity to create 1000+ jobs in this area; it was a prime area and perfect for creating revenue and to wean off the Hanford site. He said it was the City's job to make sure they had sufficient infrastructure and the funding to do that and they were not asking the County to get on board. He said they knew it would probably get appealed by Futurewise and were prepared to pay for the litigation on that and take responsibility for this. He said their next action was working with state legislation to pass a bill that would further expedite the creation of jobs in this area, high paying family wage jobs.

Commissioner Small asked if the Council supported him and Mr. Young said the Council fully supported this.

Carl Adrian, TRIDEC, said he was in favor of the UGA expansion, and TRIDEC submitted a letter in support back in August. He said he wanted to bring up four points:

1. Not all industrial property was created equally (they don't have services and are near non-compatible uses);
2. His perception of GMA was that it worked in areas like Seattle; markets like the Tri-Cities don't have the same issues like transportation congestion and companies were not compelled to be here – additionally they saw a lot of competition from Oregon;
3. TRIDEC was charged with diversifying the economy and facilitating the creation of family wage jobs and in order to be successful they needed a variety of product, specifically industrial and a variety to maximize the attractiveness to customers;
4. This area south of I-82 was truly unique in Tri-Cities area (with direct interstate access and visibility) and would be in addition to the inventory of the County that would make this area more attractive than without it and felt it was really important that it move forward.

Commissioner Delvin asked what prospective employers and businesses they were seeing and Mr. Adrian said they were seeing warehouse distribution center projects, ag projects, food processing, heavy electricity use data centers and this area made a lot of sense for those type of businesses.

Don Williams, Benton City, Representative of Central WA Building Trade Council, submitted a letter to the Board and said they represented over 10,000 building and constructions tradesman & women in Central Washington. He said they believed this was an extraordinary opportunity and would bring construction projects and trades to the area.

Ms. Hutchinson submitted his letter into the record as BCCH 1.5.

As there were no additional comments, public testimony was closed.

MOTION: Commissioner Delvin moved to approve the Comprehensive Plan Amendment Application CPA 13-01, to include 1,263 acres into the City of Kennewick Urban Growth Area and that the Chairman of the Board in conjunction with the Planning Department prepare written findings and conclusions reflecting the Board's decision to approve Comprehensive Plan Amendment Application # CPA 13-01 and that the Board continue this hearing until January 28, 2014 for consideration and possible adoption of said findings and conclusions. Commissioner Small seconded.

Discussion

Commissioner Small said the proposal and supporting documents were quite large and he reviewed the record and listened to testimony both for and against the proposal. He said he supported Kennewick in its endeavor to create jobs and the CRP land was going to cease to exist and there would 1,263 acres that would not be used. He said there were three types of jobs in Benton County (Hanford, farmers and everyone else) and he believed this was a great opportunity to fill those jobs that would be lost at Hanford.

Chairman Beaver said he appreciated what Commerce did and said he believed they thought regionally here and worked together and with the State and Federal government. He said it was his opinion that jobs got created on the west side and Eastern Washington was looked at as ag and timber and not an economic creating engine. He said he wanted the State to recognize things were different in the eastern part of Washington and they had big hurdles to get over in Benton County. He added that the efforts for development have been a dream and didn't want the State of Washington to be a dream killer and that Benton County didn't get the kind of support that was needed here.

Upon vote, the motion carried unanimously.

Office of Public Defense Update

Eric Hsu briefly updated the Board on the Office of Public Defense and said his office ended up with nine pending homicides to deal with in 2013. He said it had been customary to assign two contract attorneys to these cases so the first step they took in cost savings (since homicides were the biggest unplanned budget buster) was in locating attorneys competent enough that would take these cases on single handedly; step two was to deal with this in-house and it had taken some training and mentoring over the last two years. He said they took four of the pending cases "in-house" and hours not billed to outside counsel was 489 hours, saving approximately \$40,000 at that point and he anticipated the savings would grow.

David Sparks said with the rules coming down on contract attorneys it had worked well to transition from contract attorneys to staff attorneys.

Mr. Hsu then reviewed a Powerpoint presentation as follows:

- Previewed the key featured upgrades on the website

- Caseload update (Superior Court was slightly up and District Court was slightly down)
- Public Defender Training

Other Business

Commissioner Travel

Commissioner Delvin asked the Board for approval to travel on January 8 and February 5 for the WSAC Legislative Steering Committee and to attend the NACO conference in Washington D.C.

MOTION: Commissioner Small moved to approve travel for Commissioner Delvin as requested. Chairman Beaver seconded.

Discussion

Commissioner Beaver said he also had some scheduled time for ECA and wanted to discuss passing a motion to allow ECA travel and allow Commissioners to travel for their assignments.

Mr. Sparks asked if he wanted to have staff change the travel policy to allow that change. The Board agreed.

Upon vote, the motion carried.

MOTION: Commissioner Delvin move to approve Commissioner Beaver to travel to the ECA meeting in February, accompanied by Mr. Fyall. Commissioner Small seconded and upon vote, the motion carried.

Legislation

Commissioner Delvin said that DPA Reid Hay drafted a memo (and Representative Klippert said he would sponsor the bill) regarding the Yakima River issue. Additionally, he asked Senator Brown to sponsor two bills; one was to be able to charge for scanning of materials and the other clarified language regarding agencies (instead of State agencies it would say County agencies, etc.).

Additionally, he said he would find out this week what WSAC was planning to do with public records requests.

Long Term Care Issue

Commissioner Delvin said he was working with DPA Brown and the Yakima Attorney; they were going to go out and look at creating a non-profit to meet some of the liability concerns and he asked the agency to contact the Commissioners individually on this issue.

Domestic Water - Well Issue

Commissioner Delvin said he was drafting a Resolution on the rural domestic water supply management well issue and would bring that back to the Board.

Port of Benton – Crow Butte Park

Commissioner Small said the Board received a letter from the Port of Benton regarding Crow Butte Park. He said he wanted to look at a wean-off program regarding this issue, possibly a one-time expense and be done with Crow Butte Park.

Commissioner Delvin said he would be interested in looking at an end date for that project. He said they just received a new grant and maybe they needed some money to finish some projects. Mr. Sparks said he would work with Scott Keller to work out a proposed structure payment plan and bring that back to the Board.

Budget

Commissioner Small said he wanted to discuss sending a budget letter to departments asking about their budget and their proposed footprint reduction. Chairman Beaver agreed and said he wanted elected officials in front of the Board stating how they reduced their footprint.

Executive Session – Potential Litigation

The Board went into executive session at 11:07 a.m. for approximately 10 minutes regarding potential litigation with DPA Ryan Brown. Also present were David Sparks, Cami McKenzie, Loretta Smith Kelty, and Melina Wenner. The Board came out at 11:17 a.m. Mr. Brown stated the Board discussed potential litigation but took no action.

Claim for Damages

CC 2014-01: Received on January 3, 2014 from Margaret Aguilar

Vouchers

Check Date: 12/20/2013
Transfers #: 2001-122013
Total all funds: \$726,150.91

Check Date: 12/20/2013
Warrant #: 93255-93527
Total all funds: \$1,796,500.77

Check Date: 12/27/2013
Transfers #: 122701-122711
Total all funds: \$632,033.09

Check Date: 12/27/2013
Warrant #: 93773-94102
Total all funds: \$551,877.88

Check Date: 01/03/2014
Warrant #: 94124-94392
Total all funds: \$8,837.96

Check Date: 01/03/2014
Warrant #: 94401-94467
Total all funds: \$87,249.82

Total amounts approved by fund can be reviewed in the Benton County Auditor's Office.

Resolutions

- 2014-001: Cancellation of Unclaimed Warrants
- 2014-002: Line Item Transfer, Fund No. 0000-101, Dept. 102
- 2014-003: Line Item Transfer, Fund No. 0000-101, Dept. 106
- 2014-004: Contract Amendment w/WA State Employment Security Department
- 2014-005: Line Item Transfer, Fund No. 0305-101, Dept. 000
- 2014-006: Reappointment of S Zielinski to the Aging & Long Term Care Advisory Council
- 2014-007: Reappointment of J Wierenga to the Aging & Long Term Care Advisory Council
- 2014-008: Contract w/Latta Technical Services for Security Consulting for Corrections Facility
- 2014-009: Line Item Transfer, Fund No. 0000-101, Dept. 110
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- 2014-023: Contract w/Pronto Process Services, Inc. for Messenger Services
- 2014-024: Agreement w/S Silverthorn Public Defense Services in Superior Court
- 2014-025: Appointment of Paynewest Insurance As Broker for Insurance Policies

- 2014-026: Participation Agreement w/United Employee Benefit Trust Representing Sheriff's Clerical
- 2014-027: Participation Agreement w/United Employee Benefit Trust Representing Facilities & Parks
- 2014-028: Participation Agreement w/United Employee Benefit Trust Representing Courthouse Union
- 2014-029: Participation Agreement w/United Employee Benefit Trust Representing Juvenile Detention
- 2014-030: Participation Agreement w/United Employee Benefit Trust Representing Juvenile Clerical
- 2014-031: Participation Agreement w/United Employee Benefit Trust Representing Crisis Response
- 2014-032: Short Plat Vacation SPV 13-04
- 2014-033: Public Hearing Authorization for Vacation of King Tull Road Right of Way
- 2014-034: Agreement w/Roadwise, Inc. for De-Icer
- 2014-035: Purchase Authorization from Roadwise, Inc. for Liquid De-Icer
- 2014-036: Vehicle Repair Authorization from Edwards Auto Rebuild

There being no further business before the Board, the meeting adjourned at approximately 11:17 a.m.

Clerk of the Board

Chairman