

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
Tuesday, March 12, 2013, 9:00 a.m.
Commissioners' Conference Room
Benton County Courthouse, Prosser, WA

Present: Chairman Shon Small
Commissioner James Beaver
Commissioner Jerome Delvin
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; Human Services Manager Ed Thornbrugh; Public Works Manager Steve Becken; County Engineer Daniel Ford; Planning Manager Mike Shuttleworth; DPA Ryan Brown; Susan Walker and Clark Posey, Planning; Bob Woody, Central Services; Clerk Josie Delvin; Jacki Lahtinen, District Court; Patrick Powell, Auditor's Office; Auditor Brenda Chilton; Lexi Wingfield, Personnel; Erhiza Rivera, Treasurer's Office, Donna Hutchinson, Planning.

Approval of Minutes

The Minutes of March 5, 2013 were approved.

Consent Agenda

MOTION: Commissioner Delvin moved to approve the consent agenda items "a" through "aa", adding "bb" (Facilities/Parks CBA) and pulling "i" (Civil Defense Panel Attorney Contract w/K Moreno) and "j" (Civil Defense Panel Attorney Contract w/J Paulsen). Commissioner Beaver seconded and upon vote, the Board approved the following:

Commissioners

- a. Letter in Support of Walter Clore Wine and Culinary Center
- b. Letter of Congratulations to The Barker Ranch, Ltd.

Human Services

- c. Agreement w/Benton Franklin Community Action Committee for 10-Yr Homeless Housing Plan Goals
- d. Agreement w/Therapeutic Innovations and Recovery for 10-Yr Homeless Housing Plan Goals
- e. Agreement w/Domestic Violence Services of Benton and Franklin Counties for 10-Yr Homeless Housing Plan Goals

- f. Agreement w/Columbia Basin Veteran Coalition for 10-Yr Homeless Housing Plan Goals
- g. Appointment of R Hartwell As a County-Designated Mental Health Professional

Juvenile

- h. Criminal Defense Panel Attorney Contract w/H Villani
- k. Copier Lease Agreement w/Pacific Office Automation

Office of Public Defense

- l. Excess Cases Compensation Authorization for C Harkins
- m. Excess Cases Compensation Authorization for T Orosco
- n. Termination of Superior Court Public Defense Agreement w/J Metro
- o. Termination of District Court Public Defense Agreement w/L Swinney
- p. Public Defense Legal Representation Agreement w/N Rodriguez

Personnel

- q. Establishing a Salary Grade for a Procurement/Contract Coordinator

Prosecuting Attorney

- r. Agreement w/Benton Franklin Juvenile Court Guild Representing Juvenile Clerical Unit
- s. Agreement w/Teamsters Local No. 839, Representing Juvenile Detention Unit

Public Works

- t. Public Hearing Authorization for City of Prosser Franchise Application
- u. Award to Central Washington Asphalt, Inc. for Bituminous Surface Treatment
- v. Interlocal Agreement w/Cities of Benton City, Kennewick, Prosser, Richland and West Richland for Solid Waste Services

Sheriff

- w. Payment Authorization to Mid-Columbia Towing for Towing Services
- x. Payment Authorization to P Olson for Fatality Collision Reconstruction
- y. Line Item Transfer, Fund No. 0000-101, Dept. 119
- z. Line Item Transfer, Fund No. 0000-101, Dept. 120

Superior Court

- aa. Line Item Transfer, Fund No. 0000-101, Dept. 138

Facilities/Parks

- bb. Agreement w/Teamsters Representing Facilities/Parks

Red Mountain AVA Master Site Plan - Workshop

Susan Walker gave a Powerpoint presentation overview of the Red Mountain AVA Master Site Plan. She said the plan presented a framework and process for managing future development within the Red Mountain AVA so that new development would advance the preferred vision while protecting the unique qualities of Red Mountain. The draft plan was completed in December 2007 and Benton County retained J.T. Atkins & Company during 2012 to review and update the status of “next steps” and update the map. The 2012 final update included Planning staff review for consistency with the Growth Management Act, the County’s Comprehensive Plan and Benton County Code.

Ms. Walker said the plan provided a vision, guiding principles, maps and descriptive text, and recommendations and strategies to achieve desired goals on Red Mountain and it was Planning’s recommendation to approve the Red Mountain AVA Master Site Plan. She said the next step

would be the public hearing on March 26 and then they would prepare implementing ordinances and then attempt the master planned resort designation ordinance.

The Board complimented the Planning Department on its hard work on this project and recommended going to public hearing.

Affordable Housing Steering Committee

Ed Thornbrugh presented the committee recommendations for funding requests through the Affordable Housing Fund. He said eight applications were received with a total request of \$601,566 and the committee recommended funding the following projects:

1. Domestic Violence Services – \$108,524
2. Elijah Family Homes - \$7,646
3. Therapeutic Innovations & Recovery - \$41,058
4. Habitat for Humanity – \$11,272
5. Columbia Basin Veteran’s Coalition - \$3,500

Additionally, he said they had two policy questions that needed answers:

1. In the past, they required these funds be allowed for Benton County projects. However, in projects where they were leveraging federal funds, HUD did not allow projects to restrict applicants based upon county of residence at the time of application and were asking them to strike that language. Chairman Small said if the apartment complex proposed to be built was located in Benton County, he thought it would be fine. Ryan Brown said it would just be a policy decision by the Board. The Board agreed they could strike that language.
2. In the past, Kennewick Housing Authority was awarded funding to use as match in applications to the housing trust fund, however, they had not received that grant award. He said they were asking to continue to dedicate that money for the same grant application and felt pretty strongly this year’s application would be granted. He said if it were not granted, they could bring it back before the Board to maybe reallocate the funds. The Board agreed.

He said if the Board concurred, he would bring the agreements for approval as they came forward. There was no objection noted.

Unscheduled Visitors

Veteran’s Petition for Increase in Assistance

Pat Powell presented an income waiver for the Board’s approval.

MOTION: Commissioner Beaver moved to approve the income waiver for David DeGood as presented. Commissioner Delvin seconded and upon vote, the motion carried.

Commissioner Assignment Update

Commissioner Beaver said he attended the Council of Government executive board meeting (they were still looking for a new executive director) and would re-advertise for that position. He also attended a meeting with Adam Fall with new Governor Inslee and met the new director for Dept. of Ecology.

Commissioner Delvin said he attended water meetings on the Yakima Basin water issues. He said there were three different groups (Fish & Wildlife, Groundwater group, and Storage Alliance). He indicated he sent the proposed MOU to Ryan Brown regarding groundwater and the State was pushing the counties to be involved in water planning and permitting and charge residents a fee and he had some legal questions regarding authority. Commissioner Beaver commented that Kittitas County and Yakima County were having problems and wanted to spend money with the underlying theme being to generate money; also the Bureau of Reclamation and Yakama nation seemed to be the silent partners.

Commissioner Delvin said he attended the NACO conference in D.C. and attended different committee meetings, however, he wanted to talk further about whether to be involved in that conference.

Chairman Small said he was asked by WSAC to attend the meeting in Olympia with Jon law to discuss the Department of Corrections' lack of beds. He said they would need approximately 1200 beds and wanted to build a new facility at a cost of \$175 million. He said they were looking at different options and in the beginning stages and looking at different counties to lease bed space.

Mr. Sparks said he received an email from the CRID folks asking the County to meet with them regarding the CRID issue. He suggested a meeting with himself, Commissioner Delvin and Steve Becken so they could discuss the County's perspective on CRID's.

Additionally, he said he received a proposed interlocal for the 911 regionalization issue on Friday and would put that together for the Board's review and consideration.

Mr. Sparks said he also received a presentation on a new IT wireless network and wanted to have it presented to the Board (they were looking at one network for guests and one for county employees/functions).

The Board recessed until 1:30 p.m.

Public Hearing – Appeal of Environmental Determination – EA 12-14

Chairman Small stated the purpose of this quasi-judicial hearing was to hear the appeal of applicants Matt and Debbie Driscoll to the Benton County Planning Manager's Environmental Threshold Determination of Significance for the proposed 4,000 head feedlot (EA 12-14).

Additionally, he said the Board had the option to go into executive session for the deliberation after hearing testimony and the Board agreed.

Mike Shuttleworth asked the Board if any members had a conflict that would preclude them from participating. Commissioner Delvin said he knew Darryll Olsen and he did see an email that was sent to his legislative address. Additionally, he had conversations with Ryan Brown about how these judicial hearings were held.

Chairman Small said he had conversations with Mr. Darryll Olsen twice (on separate issues) and he also talked to Mike Shuttleworth and Mr. Posey about the application and Mr. Brown about the procedures of the case.

Commissioner Beaver said he received emails from Dr. Olsen and the Planning Department about the issues.

Mr. Shuttleworth asked the Board if any members had an interest in the property or application. All members answered no.

Mr. Shuttleworth asked the members if they stood to gain financial benefit from this application. All members answered no.

Mr. Shuttleworth asked the members if they could hear the matter in a fair and objective manner and all members answered yes.

Mr. Shuttleworth asked if there was any one present wishing to challenge the fairness doctrine and there was no objection noted.

Chairman Small stated the ground rules for testifying and asked that everyone come to the mike and state their name and address, and limit their remarks to those that had not already been made. Additionally, he said he would be asking Mr. Shuttleworth to prepare proposed findings for consideration after the close of the hearing.

There was a discussion regarding a list that was prepared about potential interveners or witnesses. Ryan Brown said that interveners were people that had asked to be a party to the action. He said if they wanted to testify and in their own interest wanted to preserve their right to appeal, then they would need to be a party. He said if there was any doubt, they should ask to be a party to the action.

Chairman Small read from a list of potential interveners and witnesses. Those present answered if they desired to be a party or witness as follows:

Debbie Driscoll, Applicants

Darryll Olsen, Agent for the Applicants

James Buchal, Attorney for Driscoll's

Mark Nielsen, Benton Conservation District - Appellant Witness

Yakama Nation - Did not speak

Washington State Dept. of Natural Resources - Witness/Party
Mark Kemner, Dept. of Ecology - Witness/Party
Max Benitz - Did not attend
Melissa Bates, Aqua Permanete - Did not attend
Suzanne Skinner, CELP - Did not attend
John Hamilton - Witness/Party
Diane Jung - Witness/Party
Henry Schinkelshoek - Witness/Party
Debra Harrison - Witness/Party
Rob Roger, Benton Clean Air Agency - Appellant Witness
Dave Wyckoff - Witness/Party

MOTION: It was moved and seconded to accept the list of interveners and witnesses. Upon vote, the motion carried.

The Clerk performed the “swearing in” of all those desiring to testify.

Mike Shuttleworth said this was an appeal on the decision he made on the application by Matt and Debbie Driscoll to submit a conditional use permit for the construction and operation of a 4,000 feedlot. He provided the exhibit list and requested Exhibits A through O be entered into the record. He said a decision of the appeal on his determination of significance had to be made by the Board by April 1, 2013.

He said when they receive an application for a conditional use permit that requires review under the State Environmental Policy Act there were category exemptions. One exemption was for water rights, however, there were a series of actions related to each other which were not categorically exempt. In other words, water rights might be exempt but the feedlot required environmental review and so it could not be separated and it all must be reviewed.

Mr. Shuttleworth discussed the groundwater plan that was included by the Commissioners in the Benton County Comprehensive Plan and he read into the record a summary of Benton County’s goals and objectives the Planning Department used when reviewing this project. He summarized his process as follows: application was received; completed a notice of application that was sent out to people within 300 feet, people who asked to be on the notice of application list and reviewing agencies that would be impacted by that project. He said they received a large amount of comments on the proposal and the number one issue was water and concern about the water table in the area. As a result of that he requested (according to the SEPA rules) additional information from the applicants and he received a study that was done by Darryll Olsen and IRZ consultants reviewing the well. That information was sent out to people who commented and he received back additional comments stating that information was not adequate to address the issue of the aquifer. In the study they looked at the aquifer (which has been watched by the Dept. of Ecology since about 1980) and they stated it was in decline, which he didn’t believe has been disputed (he said he heard anywhere from 2 feet to 10 feet decline per year). He relied on expertise from others (Dept. of Ecology, Dept. of Natural Resources, WA State University) and information that several water rights were denied due to the declining aquifer in making his

decision and saw this as a significant impact to the environment as a result of the declining aquifer.

Matt Driscoll, appellant, said he was being represented by Mark Nielsen, Conservation District, Public Works, Darryll Olsen, Clean Air Authority, and his attorney.

Darryll Olsen, Columbia Snake River Irrigators, provided a memo dated February 28, 2013 (Exhibit P) and Powerpoint (Exhibit Q). He said they were interested in the water resource issue and had concerns about the stock water exemption and exempt wells in general. He said they would not be here if they thought there would be any negative impacts and said this well would not interfere with other water right holders.

James Buchal, attorney for the Driscolls, submitted proposed findings of appeal (Exhibit R) and legal overview. Additionally, he said it was true this category exemption did not cover the whole project and the Board had to look at the whole project and decide if it was significant. In terms of what “significant” meant, they believed this categorical exclusion was the single best piece of evidence as to what significant meant. He said they were here to find out if Mr. Driscoll’s 56 gallons per minute was significant; Dept. of Ecology has said generally speaking you can go up to 2,250 without being significant.

He said in response to a letter from Mr. Shuttleworth, the Dept. of Ecology has said that “impact” was defined as something that could be measured. He said the Board would hear the effects they were talking about were too small to measure. Another issue had to do with the Yakima River and the theory that the river was connected to the ground, the river was fully appropriated, and if one drop of water were pulled from the ground, the river was being impaired and so everything was significant. However, that argument had already been to the Supreme Court and it decided 13 years ago that unless and until Ecology issued a rule to that effect, they were required to go case by case and make case by case determination and that is what they were asking the Board to do. He said Dr. Olsen alluded that if the Board took the position that each exempt well was a significant event that required expensive, time consuming processes, it was essentially making a rule that put the Basin off limits. Additionally, the Department of Ecology had the power to protect the aquifer or river any time it wanted to through rulemaking, but they have left this decision to a piece by piece determination.

He said there was an unlimited supply of water for stockwatering, and if there were pieces that were subsequently determined not to be stockwatering, there was a 5,000 gallon/day exemption for industrial uses. He said there was not significant environmental impact and it could not have an impact and Mr. Shuttleworth completely misunderstood the engineering model.

Mr. Olsen presented the Powerpoint and gave the following conclusions:

- The existing Driscoll project well is exempt from SEPA review.
- The project well will not create impairment to other wells.
- The significant adverse impact standard is either misapplied or inconsistent with empirically measurable impacts.
- The SEPA issue should not have been brought before the Board of Commissioners.

Mr. Buchal said in conclusion, the well itself was exempt from SEPA review; the well would not create impairment to other wells; the significant adverse impact standard was either misapplied or inconsistent with empirically measurable impacts; this SEPA issue should not have been brought before this Board and they were asking the Board to make a finding of insignificance.

Mark Nielsen, Manager for Benton Conservation District, said they would prepare and approve a nutrient management plan once it had the proper permits to proceed with construction. All the elements of the plan would have to either meet the United States Dept. of Agriculture Natural Resources Conservation Service standards and specifications or be designed by a licensed professional engineer. The fundamental purpose of the plan was to prevent contaminated wastewater discharge to streams, drainage ditches or other surface waters from the feedlot, to prevent migration of contaminants from the facility to the underlying aquifer, to agronomically recycle nutrients produced at the facility, and to meet the requirements of the Clean Water Act and to comply with federal, state and local laws regarding quality standards.

Rob Roger, Benton Clean Air Agency, said that feedlots over 1,000 head of cattle were required to register as an air pollution source with the Benton Clean Air Agency and submit their registration application and associated dust control plan. He said they reviewed the application and plan and did not anticipate any issues with regard to air quality.

Mr. Buchal said they were asking the Board, when making their findings, to make a mitigated determination of non-significance and the precise finding would be that when Mr. Driscoll complied with the plans, because they were to the standards that were known and certain, that the effects were less than significant because they were requiring them to do those plans.

Sue Schuetze, Public Works, said one main issue was the approach onto a county road. She said the traffic engineer field inspected the area and was ready to approve the new placement of the proposed approach.

Intervening in Support of Appellant's Request

No one present to testify.

Intervening in Opposition to Appellants' Request

Ingrid Ekstrom, Dept. of Natural Resources, submitted comments (Exhibit "S") and a copy of the final findings of fact re: Smasne Farms, Inc. v. Dept. of Ecology (Exhibit "T"). She read the comments into the record in support of DNR's request for the need for additional review of Application No. EA 12-14.

Testimony in Support

Jack Field, Washington Cattlemen's Association said they were in support of Driscolls' efforts and had strong concerns and opposition to the proposal staff put forward regarding the

determination of significance. He said they believed based upon the report by Dr. Olsen that the amount of withdrawal was negligible. He said he wanted to know if they would be having the same discussion if the Driscolls were requesting to put in a new valley pivot to grow a crop of potatoes. He said he understood the concern with feedlots but said the science was concrete, there would be nutrient management plans, the State and Federal regulations prohibited any discharge or contact with ground or surface waters and this was a great opportunity. He said if they were unable to site their feedlot in Benton County, "where could they grow agriculture?" Additionally, if the Board said no to this, he wanted to know if they were closing the Basin. He said that was the Dept. of Ecology's job; the Basin was still open and there was ample water available and he urged the Board reconsider and let them grow the industry and help the County move forward.

Ed Field, Executive Director for Washington Cattle Feeders Association, said they had been through the water issue before with the stock water and proven in previous cases that the stock water issue was exempt. He said they felt the Driscolls were trying to create opportunities for local agriculture and would appreciate the Board's support of their enterprise.

Chairman Small said to clarify, the County was not reviewing whether the Driscolls were good or bad but they were looking at whether the determination made was correct.

Fred Muller, Prosser, said he had concerns about maintaining the exemptions for stock water use of wells in this County and the State as a whole and wanted to continue to create growth in Benton County in animal agriculture; they had concerns about making sure the laws were followed accordingly and they had opportunity to create business in their County. He said they lived across the highway from the Driscolls' dairy while it was in business and they did an exemplary job of controlling the issues (dust, flies, odors and nutrient management).

Dave Wilson said it was not a matter of whether the Driscolls were nice people because he had been a neighbor and they did good work and were good people, but he didn't think the County had any business talking about stock water exemptions.

Intervening in Opposition to Appellants' Request

Mark Kemner, Dept. of Ecology Water Resources Section, Yakima, said that upon reading the appellants' document, they made a statement regarding issuance by the Washington Dept. of ecology that they had a stock water permit. He said there was a process for exempt wells and they did not issue a permit associated with those wells. They were required to file a notice of intent to drill a well (and this is what he presumed was issued). He said he would be happy to work with them on what it was they actually had.

John Hamilton, West Richland, said he wanted to address the original environmental checklist and presented comments entitled Open Record Hearing 12 (Exhibit U) and read those comments into the record. He discussed his concerns about soil, wind erosion, air quality, dust and manure management, and proximity to organic farms and how these would be addressed and asked for a definition of best management practices. Additionally, he discussed concerns regarding traffic and that the road would not stand up to excessive continual heavyweight vehicles. He said the

Driscoll plan was nowhere near adequate as a dry land operation and at the very least they needed more information on the nutrient plan and lagoon status.

Diane Jung said from her personal experience her water was down already in the past seven years and she had to choose between taking a shower or watering her garden. She felt the amount of water to be applied to the feedlot would be detrimental to her and others and to get more water she would have to drill deeper into her well. Also, if Rothrock were chosen as an alternative, the road was already breaking up on either side and currently you had to move if a large truck came on the road. She also expressed her concern about odors from the Grandview feedlot and said she imagined with the proximity to the new feedlot she would have to endure the smells. She said she also heard it would only take four people to manage the feedlot so she didn't know how this would contribute to Prosser's economy.

Deborah Harrison, said that Rattlesnake Mountain was a pristine area and only occupied by dry land farmers and her concern was the County couldn't seem to maintain the roads as they were and with trucks going up and down they would not last. She also wanted to know where the water from the feedlot was going to go and how it was going to affect the rivers and said it should be studied to find out the effects.

Henry Schinkelshoek said he was in support of the decision. He said he had concerns about Crosby Road because it was a very narrow road and vehicles would not be able to stay on the road if it met a truck. He said there was not a shoulder on the road and there would be considerable cost bringing it up to standards; he was concerned about the cost to the County and whether it could be recovered from this operation.

Dave Wykoff (Wykoff Farms) said they farmed in this area of the proposed operation and his principal concern had to do with water. He said there were several wells in this area in this aquifer that would be impacted by the Driscoll well and those wells had senior water rights. He said it was his understanding an exemption for a feedlot well could not be approved if it caused impairment to a senior water right. Additionally, these wells provided supplemental water use to hundreds of acres of valuable crops (permanent crops) and they were drilled at considerable expense in the 80's. He said there were declines at 2 to 5 feet per year from existing use and the Driscoll well would add to that decline. He talked about the testimony and studies (.3 to 1 foot decline) and said that would be 50% increase in decline and considered impairment to those senior water rights. He said if you were to draw down this aquifer further, it would impair it and the criteria was impairment, not "significant" impairment. He said there seemed to be concern if the county did not approve this exempt well, it would set a standard for all exempt well permit requests, but it was only relevant to this well. He said this project should not be approved due to the impairment to existing senior water rights in the area. Additionally, the incidence of drought years to non-drought years were likely to increase and be much more significant than in the past, and the draw down rate would likely be much more than previous.

Commissioner Delvin asked who could determine that impairment was being caused if there was impairment. Mr. Wykoff said other water rights were determined by the Dept. of Ecology so certainly the expertise lied there. Additionally, he believed impairment itself to a senior water

right was a significant impact and when a hydrologic study was done, not a theoretical study, then it could be determined.

Chairman Small asked Mr. Wykoff what he had seen in his own well. Mr. Wykoff said they had seen a decrease in the pumpability and flow rate of their permitted volume of water. Mr. Shuttleworth confirmed from Mr. Wykoff that both of his wells and DNR wells were supplemental wells and not primary wells and Mr. Wykoff said yes.

Testifying - Not Intervener

Janet Anderson Crawford said she was born and raised on the Rattlesnake and now lived on the Roza, a mile from the Anderson Ranch and she participated in the ranch as part-owner. She said the springs in the canyon were dropping every year and there was less water and she was worried about losing more water. Additionally, there was concern from her and others about pollution from the feedlot. She said the area was pristine and was settled by her grandfather in 1905 and they wanted to keep it a nice place to live and wanted to keep their water rights.

Mr. Nielsen said regarding the manure, all issues brought up by Mr. Hamilton would be addressed in the nutrient management plan. He said they would balance all the numbers agronomically, and if it needed additional acres, then they would have to find additional acres. Additionally, he said the reference to numbers (2-feet per year drop versus a .3 to 1 foot drop) was a reference to two different numbers and they could not be compared.

Mr. Buchal agreed that the numbers were different: one was an overall decline that everyone was experiencing in all the wells in the Wanapum. The other was this model from this little dip that was made in the top of the aquifer in the immediate vicinity called the "zone of impact" within two miles of the well and it was a modeled worst case if you pumped continuously all year and assumed no recharge at all. He said the IRZ report was updated at some point to respond to some of the objections and he wanted to make sure it was included in the record (Exhibit V). He said that Mr. Wykoff's arguments and concerns were all addressed in the updated report, specifically on page 2 with the engineer stating you needed to look at the tiny volume of the Driscoll well as compared to all the pumping from the Wanapum aquifer. He said that was how you determined whether there was a contribution to the overall decline but not by the temporary bump in the zone of impact. He said there were two groups, hydro-geologists and engineers (IRZ and Western Groundwater Services) concluding unanimously there was no impact and no impairment and people who were not hydrologists with legitimate fears about their wells that were unfounded on the basis of the scientific evidence. The only evidence in front of the Board in terms of the impact of this well was that it did not make a measureable contribution to any drop in the aquifer or the river. He commented that the case submitted by DNR was not an exempt well case and was not relevant to this consideration.

Additionally, because it was an exempt well no one decided on impairment unless someone began to suffer from the operation of the well, in which case they could go to Ecology and state their senior water rights were being impaired and they should limit them. Also, he said they presented the impairment analysis because the well experts said there was no impairment just to

refute the argument that if there were impairment, it would be significant. However, there was no impairment so there was no significance.

Regarding the manure study that was presented, he said Mr. Hamilton presented general evidence that over application could degrade soil quality, etc. and all those things were true. However, they were not true when you were operating under the Federal NRCS standards and plans. Other testimony presented by Mr. Hamilton focused on the initial checklist that was not the full record. The full record showed no environmental impact here. He said the woman who testified whose well was three miles away was outside the zone of impact. Additionally, her concern about Rothrock was not a road that trucks would drive down and Mr. Driscoll had satisfied Public Works Department regarding the road issues. He asked the Board to focus on whether there was proof of a significant adverse impact and they provided evidence there was not proof of a significant adverse impact.

Mike Shuttleworth said that he was not a water expert and there was a lot of testimony to review. He said he looked at the study that stated the water level was dropping and the existing aquifer was dropping. Additionally, he did get new information the wells they were looking at were not pumped every year, but pumped only during drought years and they were already dropping. It would appear this well would significantly contribute to the dropping of the adjacent wells, but he did not know about the overall aquifer. He said there were experts on both sides of the issue and he believed additional information was needed for the Board of Adjustment to make their decision on whether there was an impact. He said he hoped that an EIS would address or clarify the issues. He said there was not a definition in the WAC of significance and he looked at it that it appeared to be significant and could be an adverse impact. It could be a financial impact if someone had to further drill for their wells, and it could be an impact to other wells in this same area. Again, he said additional information was needed to be obtained for them to make that decision.

MOTION: Commissioner Beaver moved that the County Commissioners uphold the determination of significance as presented by the Planning Department. No second was noted.

Clark Posey, Planning Department, commented that given the information they had, they could not make a decision at this point.

Chairman Small said he wanted to review the updated report and go into executive session. Commissioner Delvin said he also wanted to read the other document and had some legal questions before making a determination.

The Board briefly recessed, reconvening at 4:25 p.m.

Executive Session

At 4:25 p.m. the Board went into executive session with DPA Ryan Brown for up to 30 minutes to deliberate on the issue of the appeal. The Board came out at 4:45 p.m. and Mr. Brown said that no decisions were made in executive session.

The Board agreed to continue the public hearing to 1:30 p.m. on Tuesday, March 19, 2013 in Prosser.

Vouchers

Check Date: 3/5/2013
Warrant #: 235338-235424
Direct Deposit #: 82071-82678
Total all funds: \$2,230,384.78

Check Date: 3/5/2013
Taxes #: 10113031-10113033
Warrant #: 76276-76302
Total all funds: \$2,155,160.85

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

Resolutions

- 2013-195: Agreement w/Benton Franklin Community Action Committee for 10-Yr Homeless Housing Plan Goals
- 2013-196: Agreement w/Therapeutic Innovations and Recovery for 10-Yr Homeless Housing Plan Goals
- 2013-197: Agreement w/Domestic Violence Services of Benton and Franklin Counties for 10-Yr Homeless Housing Plan Goals
- 2013-198: Agreement w/Columbia Basin Veteran Coalition for 10-Yr Homeless Housing Plan Goals
- 2013-199: Appointment of R Hartwell As a County-Designated Mental Health Professional
- 2013-200: Criminal Defense Panel Attorney Contract w/H Villani
- 2013-201: Copier Lease Agreement w/Pacific Office Automation
- 2013-202: Excess Cases Compensation Authorization for C Harkins
- 2013-203: Excess Cases Compensation Authorization for T Orosco
- 2013-204: Termination of Superior Court Public Defense Agreement w/J Metro
- 2013-205: Termination of District Court Public Defense Agreement w/L Swinney
- 2013-206: Public Defense Legal Representation Agreement w/N Rodriguez
- 2013-207: Establishing a Salary Grade for a Procurement/Contract Coordinator
- 2013-208: Agreement w/Benton Franklin Juvenile Court Guild Representing Juvenile Clerical Unit
- 2013-209: Agreement w/Teamsters Local No. 839, Representing Juvenile Detention Unit
- 2013-210: Public Hearing Authorization for City of Prosser Franchise Application
- 2013-211: Award to Central Washington Asphalt, Inc. for Bituminous Surface Treatment
- 2013-212: Interlocal Agreement w/Cities of Benton City, Kennewick, Prosser, Richland and West Richland for Solid Waste Services
- 2013-213: Payment Authorization to Mid-Columbia Towing for Towing Services
- 2013-214: Payment Authorization to P Olson for Fatality Collision Reconstruction
- 2013-215: Line Item Transfer, Fund No. 0000-101, Dept. 119

- 2013-216: Line Item Transfer, Fund No. 0000-101, Dept. 120
- 2013-217: Line Item Transfer, Fund No. 0000-101, Dept. 138
- 2013-218: Agreement w/Teamsters Representing Facilities/Parks

There being no further business before the Board, the meeting adjourned at approximately 4:47 p.m.

Clerk of the Board

Chairman