

## MINUTES

### BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting  
Tuesday, February 5, 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 Kelty; Adam Fyall, Sustainable Development Manager; Finance Manager Keith Mercer; Personnel Manager Melina Wenner; Human Services Manager Ed Thornbrugh; Public Works Manager Steve Becken; DPA Ryan Brown; Central Services Manager Randy Reid; County Engineer Daniel Ford; District Court Administrator Jacki Lahtinen; Sgt. Trevino, Sheriff's Office; Treasurer Duane Davidson; Lexi Wingfield and Bryan Perry, Personnel Dept.; DPA Ryan Lukson; Sue Schuetze, Public Works; Pat Powell, Auditor's Office; Planning Manager Mike Shuttleworth; Sharlene Vowels, Noxious Weed; Aileen Coverdell, Auditor's Office.

#### Approval of Minutes

The Minutes of January 29, 2013 were approved.

#### Consent Agenda

Commissioner Beaver requested item "I" (line item transfer for the Sheriff's Office) be pulled.

**MOTION:** Commissioner Beaver moved to approve the consent agenda items "a" through "s", pulling "I". Commissioner Delvin seconded and upon vote, the Board approved the following:

#### Commissioners

- a. Approval of Benton County Tax Levy for 2013
- b. Letter of Appointment to the Secretary of the Senate
- c. Appointment of D Brumley to the Aging & Long Term Care Advisory Council

#### District Court

- d. Purchase Authorization of Law Books from Thompson West

#### Facilities

- e. Contract w/Schindler Elevator Corporation for Elevator Services

#### Human Services

- f. Contract w/Greater Columbia Behavioral Health

**Juvenile**

- g. Agreement w/TeamChild for the Creation of a Juvenile Rights Guide

**Personnel**

- h. Amending Resolution 09 618, Section 8.5 of Voluntary Employee Beneficiary Account Plan
- i. Repealing & Superseding All Previously Approved Resolutions Regarding Health Reimbursement Arrangement/Voluntary Employees' Beneficiary Association Plan

**Public Works**

- j. Equipment Rental Rates for County Road Equipment
- k. Public Hearing Authorization for BC Water Company, LLC Franchise Application

**Sheriff**

- m. Copier Lease Agreement w/Ricoh USA
- n. Contract w/Pronto Process Service, Inc. for Process Service and Delivery
- o. Authorization to Solicit Bids for Procurement of Inmate Supplies
- p. Authorization to Solicit Bids for the Procurement of Jail Chemical Supplies
- q. Authorization to Solicit Bids for the Procurement of Paper and Glove Supplies
- r. Authorization to Solicit Bids for the Procurement of Employee Uniforms – Class A
- s. Authorization to Solicit Bids for the Procurement of Employee Uniforms & Other Related Items

**Item “P” - Line Item Transfer, Fund No, 0000-101, Dept. 121**

Sgt. Trevino said they were applying for grant money made available through the Washington Auto Theft Authority to purchase a camera, two notebook tablets, and cell service for one year. He said he needed a line item transfer to purchase the items but they were fully reimbursable through the grant money.

**MOTION:** Commissioner Beaver moved to approve the line item transfer as presented. Commissioner Delvin seconded and upon vote, the motion carried unanimously.

**Continued Public Hearing – CRID #23**

Steve Becken reviewed the written report dated January 29, 2013 and said the rough estimate for the County to construct S. 38<sup>th</sup> Avenue and that portion of Mt. Adams view west of 38<sup>th</sup> Avenue would be approximately \$950,000. Additionally, the 6 and 1-year road programs would need to be amended and could potentially jeopardize \$6 million in RAP and STP funds projects. Right of way would need to be addressed and the costs associated with that acquisition and power pole relocation could not be determined until after a survey and design were complete. Also, the City of West Richland indicated it would not participate in construction costs of 38<sup>th</sup> Avenue outside the city limits.

Mr. Becken said that Public Works was recommending the Board not undertake construction of 38<sup>th</sup> Avenue but either approve or deny the proposed CRID. To approve, they must find that the benefit received by the construction of the road was not greater than the cost as required by RCW 36.88.035, which might require hiring an appraiser to complete an appraisal.

He said that although they were recommending approval of CRID 23, without the County making a contribution to the CRID and/or hiring an MAI to complete an appraisal, they did not know if the requirements of RCW 36.88.035 could be met. Mr. Becken then outlined the options for the Board if it approved the CRID.

Commissioner Delvin said he would recuse himself from the discussions. The Board agreed he could stay for the discussions.

Ryan Brown said he was asked to provide guidance as to the scope of authority regarding assessments for CRIDs. He said the Board had only approved the formation of a handful of CRIDs and they were not formed over strenuous objection and his office had not ever been asked for guidance.

Mr. Brown summarized the petition and said it proposed the improvements be funded 100% by assessments on the neighboring properties and the resolution intent adopted in November 2012 accepted that petition and did not propose any county road funds be used in that project. He said he understood the proposal was to evenly spread the cost of the roads over the parcels that the petition proposed be included in the CRID which resulted in assessments of roughly \$20,000 per parcel. He said it was the Board's responsibility to decide if it wanted to approve the CRID formation based on current policies. If the answer was yes, then it would need to determine if the CRID was feasible and make a written finding that it was feasible. If feasible, it would need to select a method of assessment.

The Board would need to determine if the funding proposal would work in order to determine if it was feasible. In order to do that, it would need to compare (in this case) the estimated cost of the improvements to the maximum lawful assessments. Under Washington law they were not allowed to simply spread the estimated cost of a CRID out over the parcels, but only allowed to impose assessments on those properties that would specially benefit by an improvement and only up to the extent of such benefits. Special benefits were determined by comparing fair market values (either through in-house staff or contract) of the property before and after the contemplated improvements were made. So it would need to complete the analysis and determine if the estimated special benefits for all the parcels in the aggregate would equal or exceed the estimated costs of the improvements. If determined it was not feasible, then the CRID would need to be terminated or come up with another funding method designed to make up the difference. He said the Board did not have anything that reflected the estimated amount of special benefit other than Mr. Becken's conversations with realtors and therefore, given the testimony questioning the amount of assessments on particular lots, the Board may not have what it would need to make a final feasibility.

Commissioner Beaver said he was told by the attorney the Board could only consider the proposed CRID in front of them that did not include County funds. He said he indicated at the last public hearing he believed they were asking residents to support an arterial street that was usually supported by the government. Additionally, the proposed CRID that was accepted stated the costs would be funded by 100% assessments and he didn't agree with that method. Additionally, he thought the Board had a fiduciary responsibility to fund at least a portion of 38<sup>th</sup>

Avenue and partner with the City of West Richland to construct that. He said he was in favor of doing something in that neighborhood and thought the County should assist in that process.

Steve Becken said that 38<sup>th</sup> Avenue was not an arterial but was a private road and would not become an arterial without application from the County to the State and the BFCOG to the State and to the Feds. Additionally, it would take two to four months to get classified as an arterial and he couldn't apply for it to be an arterial until he knew it would become a county road.

**MOTION:** Commissioner Beaver moved to deny the formation of CRID #23 as presented. Chairman Small seconded.

### **Discussion**

Chairman Small said this was not an easy decision and they were trying to address this issue to see how they could best serve the residents. Factors to be considered were the cost of the appraisal. If the CRID were approved, the cost could be included in the assessment, however, if it were denied, the County would have to pay for it and the County had recently addressed a \$2.7 million shortfall for the new biennium budget. He said it was a very unique CRID and a lot of research was completed to make sure it was done right. He questioned whether it was really the government's responsibility to put this assessment on the residents when it was not wanted by 40% of the residents and they were trying to be fair to all.

Commissioner Beaver said he wanted to give direction to Public Works about reclassifying 38<sup>th</sup> Avenue an arterial road. Mr. Becken said the County was allotted so many miles of arterial road in the county and they were not willing to give that up unless they knew it would become a county road. He said they were not going to give an arterial classification on a private road. Commissioner Beaver recommended that issue be brought up at a different meeting so the Board could give direction.

Upon vote, the motion carried.

The Board briefly recessed, reconvening at 9:30 a.m.

### **Public Hearing - Coats Road Vacation**

Sue Schuetze presented the proposal for vacation of Coats Road. She said that CenturyLink responded and requested a 15' utility easement be retained. Additionally, Benton REA had an existing power line and requested a utility easement be created.

Ms. Schuetze indicated it was the opinion of the Public Works Department this right of way should be vacated as presented.

As there was no one present to testify, the public hearing was closed.

**MOTION:** Commissioner Beaver moved to approve the vacation as recommended. Commissioner Delvin seconded and upon vote, the motion carried unanimously.

## **Human Services Update**

Ed Thornbrugh said he had three issues to discuss with the Board.

1. Advisory Boards. Mr. Thornbrugh said there was declining interest and attendance for the advisory boards and the independent boards voted to recommend the boards be consolidated into a single Human Services Advisory Board. Mr. Thornbrugh recommended this action and provided draft bylaws that were currently being reviewed by legal.

**MOTION:** Commissioner Beaver moved to give direction to Mr. Thornbrugh to move forward on resolving his three issues. It was seconded.

2. Development of Coordinated Entry for Housing Programs. He said the intent of this would be to streamline access to key services to reduce homelessness. His recommendation was to work with the County Administrators to reorganize department positions and evaluate the need for additional positions to be funded by grants and contracts.
3. 2163 Homeless Housing. He said the steering committee reviewed the proposals and made recommendations for use of the 2163 funds. He reviewed the grant proposals and recommendations and requested approval to move forward with those recommendations.

Upon vote, the motion carried.

## **Emergency Services Update**

Ms. Smith Kelty provided a timeline regarding the Emergency Services regionalization issue.

The Board discussed the Memorandum of Understanding (MOU) signed by the Board on December 6, 2011. The State was supposed to select and hire a consultant to conduct the study but the State never executed the version that Benton and Franklin Counties signed. The Board agreed to rescind that resolution and Memorandum of Understanding. Additionally, the State provided a new MOU that was never signed by all three parties.

Mr. Brown said the Board was back to where it was before; was it ready to agree to a merger or did it want more information before agreeing to a merger.

Commissioner Beaver said he wanted to see the feasibility first. Commissioner Delvin said he didn't know if he needed to see a feasibility study; he agreed to the concept with a merger but wanted to know the cost, buy-in, and operating expenses. Chairman Small said he wanted to see that as well and wanted to know if it would be a good business move and save money, etc. Commissioner Beaver agreed he wanted to see the proposal before agreeing to a merger.

The Board talked about sending a letter stating what it wanted to see in the proposal to answer all the questions they had. Mr. Sparks said they would work on a letter stating they supported the concept under the right circumstance and then list the circumstances.

The Board briefly recessed, reconvening at 10:09 a.m.

### **Yakima River Basin Watershed Enhancement Project (YRBWEP)**

Derek Sandison, Wendy Christensen, Urban Eberhart, and Tom Tebb gave a Powerpoint presentation on the YRBWEP update as follows:

- Overview; size and production
- Management by Bureau of Reclamation
- Different water users
- Issues - declining water supply, reduced fisheries, municipal and domestic needs
- Integrated plan grew from Yakima River Basin Water Enhancement project – now it was well served by different groups
- Process from 2009 to present; plans and implementation
- Goals of the plan: ecological restoration; improve water supply during drought; water supply management
- Seven Elements: reservoir fish passage; habitat/watershed protection and enhancement; surface water storage; enhanced water conservation; groundwater storage element; market reallocation element; structural and operational changes
- Schedule – completed final EIS in March 2012; completed federal planning document in Oct. 2012; Federal agency support group formation in Fall, 2012; State/Capital budget request in Jan. 2013; workgroup seeking federal authorization funding 2013 and beyond.

### **Unscheduled Visitors**

#### **Jim Wade**

Mr. Wade, Kennewick, asked how much the percentage per \$1,000 was on the resolution that was approved by the Board. Mr. Sparks said the resolution approved was for the tax levy however, the resolution completed in December certifying taxes was at approximately \$1.26 or \$1.27 per thousand.

Mr. Wade discussed the Yakama Basin water project, other sustainable development projects and his concern that salmon were more important than humans and wanted to know where the money was coming from. Commissioner Delvin said fish costs were imbedded in electrical bills.

#### **Treasurer Update on Legislative Issues**

Treasurer Duane Davidson said he spent 2 ½ days in Olympia and updated the Board on the following legislative issues:

1. Property taxes – he said there were five bills alone dealing with delinquent property taxes and giving more options to taxpayers to pay. He said two appeared to be going away with three remaining (and one the County Treasurer Association preferred) that mirrored prior legislation allowing for monthly property tax payments for delinquent taxes. He said he would be asking the Commissioners for support as they made their way through the committees.
2. Irrigation bill that larger districts really needed for foreclosure of LID's, but did not pertain to mini districts that the Treasurer served.
3. Bill about the administrative refund levy (being held up by a code reviser and being questioned about relevance). He said he wanted to drop a companion bill if he could get support in the Senate.

#### Income Waiver for Veterans Assistance

Pat Powell requested the Board approve an income waiver for veteran Robert Burns.

**MOTION:** Commissioner Beaver moved to approve the income waiver for Robert Burns. Commissioner Delvin seconded and upon vote, the motion carried.

#### Tom Bohlke

Mr. Bohlke, Prosser, said he heard that Red Mountain was going to draw out water for the wine groups and asked about the moratorium on withdrawals. He was told it was a 10-yr process for KID and their withdrawal permit was moved downstream; they were not taking any more water but it was just a change of location (instead of upriver KID would now be taking it downstream).

He also discussed his concern that game wardens could search without a warrant, the same as a customs agent. Commissioner Delvin said they had law enforcement authority if they went through the WA State Criminal Justice training with the same powers as any other police officer, not any special powers.

#### Commissioner Assignment Update

Commissioner Delvin said he resigned his Senate seat and the new appointee was sworn in on Monday. He said he was now looking forward to doing county business and had nothing to report.

Commissioner Beaver said he was lobbied pretty hard for the Senate position. Additionally, he attended meetings for the Council of Governments and Workforce Development Council.

Chairman Small said he worked on the CRID and Emergency Management regionalization issues.

Mr. Sparks reported they had tentative agreements for the union contracts. Additionally, he received a notice from the State Auditor regarding the exit conference and in the past the

Chairman ha met with the State Auditor. Commissioner Delvin asked about sitting in on that meeting and Mr. Sparks said he would work on setting up individual meetings.

### Letter of Support – Water Rights for Kennewick General Hospital (KGH)

Commissioner Beaver asked the Board if it would write a letter of support for water rights for KGH to develop land in the Southridge area. Commissioner Delvin expressed his concern about some of the mitigation they were being required to do. The Board agreed to send a letter.

Commissioner Beaver also discussed HB 1350 (water right legislation) and said he had no desire to be a water cop. He said he was asked by the Snake River Irrigators group to weigh in on this subject and provide Benton County’s position. The Board agreed to write a letter.

### Executive Session – Potential Litigation

The Board went into executive session with DPA Ryan Lukson at 11:10 a.m. for up to 20 minutes. Also present were Clay Vannoy via/video conference, Ryan Brown, Bryan Perry, Loretta Smith Kelty, Melina Wenner, David Sparks, and Cami McKenzie. The Board came out at 11:23 am. Mr. Lukson stated the Board discussed potential litigation but no action was taken.

### Vouchers

Check Date: 1/29/2013  
Warrant #: 73891  
Total all funds: \$5,000

Check Date: 1/30/2013  
Warrant #: 73909-74019  
Total all funds: \$503,023.18

Check Date: 02/01/2013  
Warrant #: 74101-74208  
Total all funds: \$439,011.82

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

### Resolutions

- 2013-113: Approval of Benton County Tax Levy for 2013
- 2013-114: Appointment of D Brumley to the Aging & Long Term Care Advisory Council
- 2013-115: Purchase Authorization of Law Books from Thompson West
- 2013-116: Contract w/Schindler Elevator Corporation for Elevator Services
- 2013-117: Contract w/Greater Columbia Behavioral Health
- 2013-118: Agreement w/TeamChild for the Creation of a Juvenile Rights Guide
- 2013-119: Amending Resolution 09 618, Section 8.5 of Voluntary Employee Beneficiary Account Plan

- 2013-120: Repealing & Superseding All Previously Approved Resolutions Regarding Health Reimbursement Arrangement/Voluntary Employees' Beneficiary Association Plan
- 2013-121: Equipment Rental Rates for County Road Equipment
- 2013-122: Public Hearing Authorization for BC Water Company, LLC Franchise Application
- 2013-123: Transfer of Funds – Current Expense – Dept. 121
- 2013-124: Copier Lease Agreement w/Ricoh USA
- 2013-125: Contract w/Pronto Process Service, Inc. for Process Service and Delivery
- 2013-126: Authorization to Solicit Bids for Procurement of Inmate Supplies
- 2013-127: Authorization to Solicit Bids for the Procurement of Jail Chemical Supplies
- 2013-128: Authorization to Solicit Bids for the Procurement of Paper and Glove Supplies
- 2013-129: Authorization to Solicit Bids for the Procurement of Employee Uniforms–Class A
- 2013-130: Authorization to Solicit Bids for the Procurement of Employee Uniforms & Other Related Items

There being no further business before the Board, the meeting adjourned at approximately 11:23 a.m.

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Clerk of the Board

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Chairman