

## MINUTES

### BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting  
Tuesday, March 19, 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; Planning Manager Mike Shuttleworth; DPA Ryan Brown; Treasurer Duane Davidson; Erhiza Rivera and Nick Kooiker, Treasurer's Office; Bob Woody, Central Services; Jacki Lahtinen, District Court; Clerk Josie Delvin; RJ Lott, Planning; Teri Holmes, Central Services; Stuart Holmes, Auditor's Office; Robert Heard, Central Services.

#### Approval of Minutes

The Minutes of February 27, 2013 were approved.  
The Minutes of March 12, 2013 were approved.

#### Consent Agenda

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

#### Animal Control

- a. Line Item Transfer, Fund No. 0000-101, Dept. 137

#### Clerk

- b. Line Item Transfer, Fund No. 0000-101, Dept. 106
- c. Line Item Transfer, Fund No. 0146-101, Dept. 000
- d. Authorization of Two Additional Cash Drawers

#### Commissioners

- e. Purchase Authorization for Two Chevrolet Impalas From Bud Clary Chevrolet
- f. Letter of Congratulations to Washington Department of Ecology

#### District Court

- g. Line Item Transfer, Fund No. 0000-101, Dept. 111

h. Copier Lease Agreement w/Xerox Corporation

**Facilities**

i. Notice of Substantial Completion for Justice Center TI Project

**Fairgrounds**

j. Contract with Stratton Surveying & Mapping, PC

**Juvenile**

k. Criminal Defense Panel Attorney Contract Amendment w/S Henwood

l. Criminal Defense Panel Attorney Contract w/D Anderson

m. Civil Defense Panel Attorney Contract w/J Paulsen

n. Civil Defense Panel Attorney Contract w/D Campbell

o. Contract Award to Senske Lawn & Tree Care for Turf Weed Application

**Personnel**

p. Denial of County Claim CC2013-02

q. Training Contract w/C Poulsen

**Prosecuting Attorney**

r. Agreement with DeAtley Crushing Company

**Public Works**

s. Authorization to Proceed w/Bid Process for Purchase of Two Side Cast Brooms

**Sheriff**

t. Purchase Authorization for One Kawasaki Concours Police Motorcycle

**Public Hearing - Private Road Naming – PR 13-01**

RJ Lott said that Jim Parker submitted a request to name a private road that was not yet named or numbered located off Hansen Road and all properties affected by the proposed name were owned by Mr. Parker. He said the most appropriate name was Salmon Run PR NW and the Planning Department recommended approval.

As there was no one present for public testimony, the public hearing was closed for comment.

**MOTION:** Commissioner Beaver moved to approve the road name change of the private road in Short Plat 3044 to Salmon Run PR NW with the condition the applicant had 30 days to pay the required sign fee for construction and placement of the private road sign. If the fee was not paid within 30 days, the approval would be declared null and void. Commissioner Delvin seconded and upon vote, the motion carried unanimously.

**Central Services – WI-FI Presentation**

Bob Woody said the current wireless network access that existed in the county buildings was not adequate for the needs today. He said there were five separate networks that had to be maintained and it was difficult for corporate county users to access. He said they wanted to find a solution to simplify the way it worked for corporate county users and guests, improve the wireless coverage to include all county buildings, ensure it was reliable and secure, and have the ability to expand easily and manage those expansions. He said all these goals were considered when looking for a solution.

Mr. Woody then showed a video presentation from Meraki Company (based out of the bay area) regarding a network system that worked and the complexity was taken care of by cloud based management tools. He said this program would increase internet band width, increase connection between buildings, push connectivity to every area of county buildings, and would also increase desktop performance.

Mr. Sparks said Meraki sent some demo products and Central Services tried to crash the internet with their product; additionally, he downloaded his agenda with Meraki and it was night and day compared to what the County currently had. Mr. Sparks said the initial capital investment was \$60,000 for purchase of equipment and then it operated on a three-year lease at approximately \$5,000 to \$6,000 a year for the software. He said it fit the current IT plan and Central Services did an excellent job of researching this and they were now ready to go forward with an RFP.

The Board agreed to move forward on the RFP process.

### **ER&R Vehicle Policy**

Steve Becken presented the updated proposed ER&R Vehicle policy and said that Loretta Smith Kelty and Dan Mack had worked primarily on the policy, and Larry Moser had worked on the rental rates. He said the original policy was done in 1990 and vehicle replacement was based on 100,000 miles and 5 years old. He said highlights for the new policy were depreciation of 7 years, 100,000 miles or 10 years old or determination by ER&R that the vehicle was not safe to drive. He said the departments would fund the vehicle and in 10 years would have money to buy a new one. He said that all vehicles would be maintained at the shop at 4,000 mile intervals and rental rates would actually depend on maintenance costs through the years. Additionally, all vehicles would be fleet white, except large road maintenance vehicles.

Commissioner Delvin asked if the policy was sent out to other elected officials. Ms. Smith Kelty said she had been talking individually with departments to find out what was needed but she had not sent out the policy. Commissioner Delvin thought maybe it should go to elected officials for their comments and the Board agreed. Ms. Smith Kelty said she would email the policy out and bring it back for Board approval in a couple of weeks.

### **MATRICES Interlocal Emergency Communication System**

Mr. Sparks said they had been working with the jurisdictions on a new interlocal for a study to design an implementation plan that worked towards regionalization of the emergency communications systems. He presented a draft of that interlocal agreement and asked the Board if it wanted to move forward.

Commissioner Delvin said he attended a meeting with the three city managers and Franklin County and had a good conversation and there was a new comfort level that would allow the process to continue without committing to a regionalization. He said at the end of the process they would be able to decide if the merger made sense and if they wanted to proceed ahead.

**MOTION:** Commissioner Delvin moved that the Commissioners accept the draft interlocal agreement (MATRICS) and allow David Sparks and Loretta Smith Kelty to proceed and work with the parties for a final agreement. Commissioner Beaver seconded.

### Discussion

Commissioner Beaver said it appeared to be a boiler plate agreement, however, the part that disturbed him was on page 2 section 6 (Objectives/Criteria) that was removed that would include how Benton County/Kennewick/Richland would be compensated or reimbursed for their current capital outlay or infrastructure. He said that translated to him as an attempt to have people join this process that were not invested in it and would be putting Benton County politically in a position that he didn't want to be in. He said it appeared that Benton County owned what it owned but that others were trying to get involved.

Commissioner Delvin said he wanted to see this process continue so they could address all the issues (who was paying for what, who was a partner, who would pay for contractual services). He said he was fine with this draft agreement and his expectations were that the group would come to the Board to talk about where they were in the process.

Chairman Small agreed that Commissioner Beaver had some valid points about being concerned about the future. He said he thought the contract read that it was working towards a regionalization and the cost allocation would include a cost benefit analysis. He felt the agreement would work toward finding out if this was a good idea and it was the right direction to go.

Commissioner Beaver commented that if this was such a great idea, why was it a problem keeping in the language that would make Benton County more comfortable. He said it appeared to be a game to get the County to pay more money.

Upon vote, the motion carried with Commissioner Beaver opposing.

### **Unscheduled Visitors**

Duane Davidson presented a letter to the legislators from Benton County elected officials urging the State not to cut State Shared Revenues.

**MOTION:** Commissioner Beaver moved to approve signing the letter. Commissioner Delvin seconded and upon vote, the motion carried unanimously.

Mr. Davidson also updated the Board on the following legislation:

Administrative Refund Levy - (Senator Brown sponsored for the Treasurer's Association and supported by WACO and WSAC) made it through the Senate and was now sitting in House Finance. He said if it was delayed further he might ask for further support from the Commissioners.

Treasurer Foreclosure Fees bill - he said it would assist in keeping the Treasurer's O & M funded (there were two FTE's in that fund). He said it passed the House and was now in Government Ops Committee.

He said there were originally six bills that would allow for payment of property taxes on installment basis and HB 1004 was still alive. He said it cut into penalties and interests and there were some ramifications to the County but he was asking the Board to support that bill.

Andy Miller via/videoconference said he wanted to update the Board on his plans to apply to the Dept. of Justice for a justice and mental health corroboration grant that required corroboration with a governmental agency and mental health treatment agency. He said they would be applying in conjunction with Lourdes Counseling Center and received letters of support from NAMI, Ed Thornbrugh, Human Services, Benton-Franklin Health Alliance, Kennewick Police, Benton County Sheriff, W. Richland Police Department, Richland Police Department, Superior Court and District Court. He said this would be a planning grant to get all treatment agencies, law enforcement, and court to work on these issues and try to come up with a common goal. He said different options could be a triage program or pre-charge diversion program, mental health court, treatment in the jail, follow up treatment, and/or probation treatment were all possibilities. He said he talked to David and Loretta and was also keeping the cities involved. He said he knew the Board was always appropriately concerned about sustainability and there was an implementation grant after the planning grant. He said he planned to apply unless there were some concerns and would continue to keep the Board apprised through David Sparks and Loretta Smith Kelty.

Commissioner Delvin said he believed the issues should be addressed and he was in favor of moving forward. The Board agreed.

### **Commissioner Assignment Update**

Commissioner Beaver said he attended the Park Board meeting (Hank Sauer retired after 20 years) and the Council of Government meeting (interviewed an individual for executive director position). He said he planned to attend the ECA conference in DC and asked the Board for approval (he said it was fully reimbursed for two individuals from the County).

**MOTION:** Commissioner Small moved to approve the travel for Commissioner Beaver. Commissioner Delvin seconded and upon vote, the motion carried with Commissioner Beaver abstaining.

Commissioner Delvin said he attended the Ben Franklin Transit meeting, as well as another water meeting in Yakima with the Yakima Basin group (they have a plan in place but it was a matter of getting funding). He said he would be visiting Olympia in April for WACO to attend events and said if there was anything the Board wanted to talk about to let him know. There was a SARC meeting on March 27 asking for community members and he was going to volunteer (he served on crime victim advocate committee for the State). The Board agreed. Additionally, he said the NACO western meeting was coming in May and he would pay his cost to get down there if the County would pay the hotel (\$115/night and registration fee).

**MOTION:** Commissioner Beaver moved to approve paying for hotel and registration at the NACO western meeting. Commissioner Small seconded and upon vote, the motion carried with Commissioner Delvin abstaining.

Additionally, Commissioner Delvin talked about the Board having a budget presentation in April and that he would talk with Keith Mercer about what he wanted to see. He said he also forwarded an email to the Sheriff about witnessing shooting on a private road (Owen Road) and they said they would look into it and also see about getting a work crew to clean up trash.

Chairman Small said he also attended the Park Board meeting, the Prosser Leadership meeting (and thanked everyone for their presentations), and the town hall meeting that started in Richland and moved to West Richland and ended up in Kennewick.

The Board recessed, reconvening at 10:19 a.m.

### **Executive Session**

The Board went into executive session at 10:19 a.m. for up to 10 minutes to discuss the performance of a public employee. Also present were Melina Wenner, Loretta Smith Kelty, and David Sparks. The Board came out at 10:37 a.m. and Mr. Sparks said that no decisions were made.

The Board recessed, reconvening at 1:30 p.m.

### **Continued Public Hearing – Appeal of Environmental Determination**

Mike Shuttleworth said the public hearing was continued for deliberation by the Board. Additionally, he asked the members if they had engaged in any ex parte communication since the last disclosure and they all said they had no new communication. The Board members then reiterated their previous disclosure. Commissioner Beaver said he previously talked to Dr. Olsen and Ryan Brown. Commissioner Delvin said he read an email from Dr. Olsen and had discussions with Ryan Brown. Chairman Small said he talked with Dr. Olsen twice as disclosed before.

Chairman Small said he had questions for Mr. Wkoff and reminded him that his oath continued. He asked Mr. Wykoff how many acres his wells pumped. Mr. Wykoff said there were two wells in the Wanapum, one was called the Wykoff well and the other was the DNR well. He said they had a lease with DNR for supplemental water purposes and both wells covered several hundred acres in supplemental water use, although he wasn't exact and it might be more than hundreds. He said the water from DNR was also used by Mr. Jim Willard in supplemental water years. He said he believed there were additional wells in the Wanapum that were used for supplemental purposes (Lewis and Munich families that were both a mile away from the DNR well).

It was asked if there were any new comments received and entered into the record. Mr. Shuttleworth presented two letters submitted to the Planning Department. One from Suzanne Skinner (Exhibit aa) and one from Gary Finn (Exhibit bb).

Chairman Small then stated the public input portion was closed for further public testimony.

**MOTION**: Commissioner Beaver moved to uphold the determination of significance for EA 12-14. Commissioner Delvin seconded.

### Discussion

Commissioner Delvin said he did not see what was presented as significant. He said the main issue seemed to be the aquifer with one side with expert analysis. The other side showed DNR had concerns but nothing to show. He said the Dept. of Ecology only had communication between them on the definition. He said he was not convinced there was anything proven to be significant and that all other concerns would be addressed in the permitting process. He said if it came down to the water, it was not the County's responsibility but it should be the Dept. of Ecology's responsibility to quantify the water. He said if they had an issue with the well, they should take action and it was not the County's duty to protect the water rights, it was the State's duty to protect water rights. He reiterated that nothing that was significant was proven to him more than a moderate adverse impact on environmental quality.

Commissioner Beaver read the letter from the Center for Environmental Law (Suzanne Skinner, Exhibit "aa", paragraph 3): "Where warranted, a county may and should deny a land use application on environmental grounds" and said that illustrated his position. He said it suggested to him, along with the testimony received that this project would create a significant impact and the evidence in front of them would support the Planning Manager's decision and so he wanted to reaffirm the Planning Manager's decision as he saw it. He said Mr. Shuttleworth had spent years looking at these types of issues and had made a determination of significance.

Chairman Small said in his determination of what was truly defined as significant he looked at the totality of all things submitted. There was testimony that someone was deciding whether to take a shower or water their garden at one end and the other end a farmer dealing with irrigation. He said that everything he read referenced the drop in water and the concern about that. He said he was not saying no to someone's dream of putting in a cattle yard but the main issue was regarding the EIS. He said he believed it was a case by case study and he did not believe they were setting a precedent on this issue.

Commissioner Delvin said his decision had nothing to do with Mr. Shuttleworth since he himself said he was not a hydrologist or water expert person and there were reports out there. He said the people who spoke about their wells were not in the same aquifer and he was just saying the County should not decide on the water and that it was the State's job. The County should not be making the determination because it did not have the expertise. Additionally, the Dept. of Ecology had not done a good job and they had fought this issue at the State about whose role it was.

Chairman Small requested a recess to confer with the attorney.

The Board recessed, reconvening at 1:55 p.m.

Chairman Small said he asked Mr. Brown if the Board would be setting any sort of precedent either way it was decided.

Upon vote, the motion carried with Commissioner Delvin opposing.

The Board restated it was affirming the determination of significance and requested Mr. Shuttleworth prepare findings and conclusions. Mr. Shuttleworth said they normally worked with a Commissioner on the findings and Chairman Small said he could do that.

The public hearing was continued to 9:00 a.m. on March 26, 2013 to discuss the proposed findings and conclusions of law.

### **Vouchers**

Check Date: 03/08/2013  
Warrant #: 76303-76441  
Warrant #: 76505-76635  
Total all funds: \$375,187.02

Check Date: 03/12/2013  
Procurement Cards #: 0312  
Total all funds: \$124,136.87

Check Date: 03/15/2013  
Warrant #: 235425-235441  
Direct Deposit #: 82683-82878  
Total all funds: \$104,265.87

Check Date: 03/15/2013  
Taxes #: 10113034  
Total all funds: \$34,390.69

Check Date: 03/15/2013  
Warrant #: 76796-76938  
Total all funds: \$1,624,722.93

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

### **Resolutions**

2013-219: Line Item Transfer, Fund No. 0000-101, Dept. 137  
2013-220: Line Item Transfer, Fund No. 0000-101, Dept. 106  
2013-221: Line Item Transfer, Fund No. 0146-101, Dept. 000  
2013-222: Authorization of Two Additional Cash Drawers  
2013-223: Purchase Authorization for Two Chevrolet Impalas From Bud Clary Chevrolet  
2013-224: Line Item Transfer, Fund No. 0000-101, Dept. 111

- 2013-225: Copier Lease Agreement w/Xerox Corporation
- 2013-226: Notice of Substantial Completion for Justice Center TI Project
- 2013-227: Contract with Stratton Surveying & Mapping, PC
- 2013-228: Criminal Defense Panel Attorney Contract Amendment w/S Henwood
- 2013-229: Criminal Defense Panel Attorney Contract w/D Anderson
- 2013-230: Civil Defense Panel Attorney Contract w/J Paulsen
- 2013-231: Civil Defense Panel Attorney Contract w/D Campbell
- 2013-232: Contract Award to Senske Lawn & Tree Care for Turf Weed Application
- 2013-233: Denial of County Claim CC 2013-02
- 2013-234: Training Contract w/C Poulsen
- 2013-235: Agreement with DeAtley Crushing Company
- 2013-236: Authorization to Proceed w/Bid Process for Purchase of Two Side Cast Brooms
- 2013-237: Purchase Authorization for One Kawasaki Concours Police Motorcycle

There being no further business before the Board, the meeting adjourned at approximately 2:00 p.m.

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Clerk of the Board

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Chairman