

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
Tuesday, May 5, 2015, 9:00 a.m.
Benton County Planning Annex
1002 Dudley Avenue, Prosser, WA

Present: Chairman Jerome Delvin
Commissioner James Beaver
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 Kelty; Adam Fyall, Sustainable Development Manager; Public Works Manager Daniel Ford; Planning Manager Mike Shuttleworth; DPA Ryan Brown; Clerk Josie Delvin; District Court Administrator Jacki Lahtinen; Bob Woody, IT Department; GIS Manager Mary Phillips; Clark Posey, Planning; Assessor Bill Spencer; Dan Mack and Matt Rassmussen, Public Work; Steve Brown and Dale Wilson, Building Department.

Approval of Minutes

The Minutes of April 28, 2015 were approved.

Review Agenda

An Executive Session regarding the performance of a public employee was added to the agenda.

Consent Agenda

MOTION: Commissioner Beaver moved to approve the consent agenda items “a” through “o”. Commissioner Small seconded and upon vote, the Board approved the following:

Commissioners

- a. Proclamation for Older Americans Month
- b. Letter to Tri-City Model Railroaders

Facilities

- c. Change Order From G2 Commercial Construction for Courthouse HVAC & Renovations

Human Services

- d. Amended Homeless Grant w/WA State Dept of Commerce, Community Services & Housing Division, Housing Assistance Unit

Pest Board

- e. Contract w/American Tree Trimmers , LLC for Removal of Abandoned Orchard

Public Works

- f. Authorization for Consultant Services for Converting Road Shop to Solid Waste Facility
- g. Line Item Transfer, Fund No. 0155-101, Dept. 000
- h. Authorizing Repair from Mathews Auto Body LLC for Damaged Vehicle
- i. Establishing Speed Limit on Antinori Road
- j. Purchase of Specialized Parts from Northend Truck Equipment, Inc.
- k. Amendment to County Road Administration Board Rural Arterial Program Project Agreement for Nine Canyon Road
- l. Agreement for Certification Acceptance Services w/City of Prosser (3 separate)

Sheriff

- m. Contract w/ 911 Supply, LLC for patch replacement
- n. Termination Letter to PropertyRoom.com

Sustainable Development

- o. Agreement w/Tri-City Development Council for Economic Development Services

Other Business

Chairman Delvin presented a Certificate of Good Practice issued by the County Road Administration Board to County Engineer Dan Ford.

Unscheduled Visitors

Bruce Kuhlman, Prosser, said he moved a new manufactured home onto his property and expressed concern about a requirement to pave an apron on the road approach with a cost estimate of \$4,500.00. He asked if the Commissioners approved this requirement and what would happen if he didn't comply.

Chairman Delvin said this issue was brought up last week and it was his understanding the resolution was being re-worked. He said they would talk to Mr. Ford and see what could be done in the meantime.

Mr. Ford said that Mr. Kuhlman was looking at two homes on his property which triggered this requirement. He said they were looking at the entire policy and trying to put some common sense into it so it would not have negative impacts.

They agreed to meet after the meeting and promised to get back to Mr. Kuhlman by the end of the week.

Marijuana Issue – Clodfelter Road

Newell Crary, Kennewick, expressed concern about the issue and gave a report to the Board discussing I-502 permitting and how it affected counties in Washington State. He said that Benton County voted no, but it was one of the easiest counties in the State to get a permit.

Chairman Delvin said the Board made a decision regarding zoning to not allow processing in Rural Lands 5 but they might want to take a look at the zoning again. He said it was the State's approach to issue licenses if they met the criteria, irrespective of what the counties did.

Brennen Kent, Badger Canyon resident in Kennewick, said they spent a lot of money for an expensive home and he was concerned about the lack of regulations and restrictions. He asked the Board to impose an immediate moratorium and look at removing the use from RL 5 and only allow it in RL 20 and Industrial, away from the residential areas. Additionally, he said he left a message for code enforcement and did not receive a response.

Steve Proctor, Kennewick, said he did not live in the immediate area, but lived in an R5 zone. He said the power rested with the Commissioners to do what was right and he agreed with a moratorium to study the issue and recommended they look at Rural 20.

Commissioner Small commented that even though the state issued the license, the County could put in restrictions. However, the Attorney General said if they put in a moratorium, the AG's office would assist in the lawsuits and the County was concerned about lawsuits.

Paul & Jill Hedgpeth expressed concern they did not receive notice from the County that this application was filed with the state and they were not notified. They asked for an immediate moratorium and said it was within the County's power to determine what type of action could be done at the county level. Additionally they asked them to review what other counties were doing and take appropriate action.

Chairman Delvin commented that the County was not issuing a conditional use permit (it was not their action) so they were not required to notify the residents.

Charlotte Schlotfeldt, S. Cottonwood Drive, spoke on behalf of herself and her business (RV Park on Wiser Parkway). She expressed concern about the rescinded resolution removing the special use permitting process for agriculture and said the true impacts could have been measured. She said they were required to apply for a special use permit for their business and spent tens of thousands of dollars to meet the requirements and spent millions of dollars to have a nice resort and be a good neighbor. She also expressed concern that it appeared what happened to the residents didn't seem to matter against the potential liability to the County and County personnel. She asked the Commissioners to review the issues related to the zoning laws in Benton County.

Paul Cardelli, S. Clodfelter Road and a multiple-property owner in Benton County, said he had dealt with the negative impacts of marijuana and really felt this was a zoning issue. He said he received a letter from a State Representative that it was up to the County to say where these grows could happen so felt this was a good opportunity to review the issue. He said he respected that it was legal to grow but the County could say where.

Jim Bower, Clodfelter Road, said the area was rural residential and he had lived there 10 years. He said that marijuana was not like other agricultural crops because other crops didn't require

security or fencing or State approval. He said he believed it was different and he requested the County Commissioners impose a moratorium and look at protecting the neighborhoods.

Pam Henderson, Clodfelter Road, said she helped Fortune 500 companies across the nation to be innovative. She said a lot of people wanted to grow marijuana and she felt there was some real urgency to the issue (right or wrong). The potential growers were putting money into this and in order to save them money or the risk of a lawsuit, she requested the Board act quickly and consider the following: imposing a moratorium; considering RL 20; adopt the 1,000 foot rule (automatically removed 5 acre lots); while at this moment it was under the Liquor Control Board, it didn't mean the County had to treat it like liquor.

Diane McBeth, concerned citizen, said she was concerned about the aroma, even if it was restricted by perimeters, and also the proximity to residences and schools.

Chairman Delvin said when they looked at this as a Board in 2013 to deal with the zoning issue unfortunately the public did not show up. He said they took out processing in the RL 5 but maybe they would have taken a different course if the public had showed up. However, he believed they were now at the point where they could look at this again and would start by sending out a letter to the Liquor Board asking them to wait on licensing in Benton County until they figured out the zoning. Additionally, he talked to the legal department and they would review the emergency moratorium issue.

Commissioner Small commented that the issue was a moving target so it had been hard to figure this out. He said he agreed with sending a letter to the Liquor Board and to reviewing the zoning issue.

Commissioner Beaver said he honestly didn't feel this issue was going to pass. He said they wanted to jump on it right away but were told they would get sued, however, they were trying to do the right thing. He said he appreciated the input and they were here to support them and they would work through this issue.

Colleen Raines, Kennewick, spoke from the audience and said that Section 6 in I-502 gave the County an opportunity to give written objection and asked the Board to review that.

The Board recessed, reconvening at 10:27 a.m.

Executive Session – Performance of Public Employee

The Board went into executive session at 10:27 a.m. for approximately 20 minutes to discuss the performance of a public employee. Also present were Ryan Brown, David Spark, and Loretta Smith Kelty. The Board came out at 10:43 a.m. No decisions were made in executive session.

Marijuana Issue – Continued

The Board discussed the issue with DPA Ryan Brown and requested he review the emergency moratorium. Additionally, Mr. Brown commented the Board actually restricted uses when they

removed the conditional use permit process. He said if the Board wanted to add marijuana growing in RL5 as an exception and not allowed he believed they would be okay.

Mr. Brown also said that an applicant would be vested to the rules in place when they made the application if they were to apply for a conditional use permit.

Additionally, he would review the rules regarding an emergency hearing and get back to the Board by the end of the day.

Vouchers

Check Date: 05/01/2015

Warrants #: 120978-121062

Total all funds: \$1,551.77

Transfers #: 05011501-05011506

Total all funds: \$426,192.34

Warrants #: 121063-121208

Total all funds: \$947,817.89

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

Resolutions

- 2015-331: Proclamation for Older Americans Month
- 2015-332: Change Order From G2 Commercial Construction for Courthouse HVAC & Renovations
- 2015-333: Amended Homeless Grant w/WA State Dept of Commerce, Community Services & Housing Division, Housing Assistance Unit
- 2015-334: Contract w/American Tree Trimmers, LLC for Removal of Abandoned Orchard
- 2015-335: Authorization for Consultant Services for Converting Road Shop to Solid Waste Facility
- 2015-336: Line Item Transfer, Fund No. 0155-101, Dept. 000
- 2015-337: Authorizing Repair from Mathews Auto Body LLC for Damaged Vehicle
- 2015-338: Establishing Speed Limit on Antinori Road
- 2015-339: Purchase of Specialized Parts from Northend Truck Equipment, Inc.
- 2015-340: Amendment to County Road Administration Board Rural Arterial Program Project Agreement for Nine Canyon Road
- 2015-341: Agreement for Certification Acceptance Services w/City of Prosser – OIE Phase 1
- 2015-341A: Agreement for Certification Acceptance Services w/City of Prosser - OIE Phase 2
- 2015-341B: Agreement for Certification Acceptance Services w/City of Prosser – 7th Street ADA
- 2015-342: Contract w/ 911 Supply, LLC for patch replacement

2015-343: Agreement w/Tri-City Development Council for Economic Development Services

There being no further business before the Board, the meeting adjourned at approximately 10:57 a.m.

Clerk of the Board

Chairman