

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
Tuesday, October 27, 2015, 9:00 a.m.
Commissioners' Conference Room
Benton County Courthouse, Prosser, WA

Present: Chairman Jerome Delvin
Commissioner Shon Small
Commissioner James Beaver
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; County Engineer Matt Rasmussen; Planning Manager Mike Shuttleworth; DPA Ryan Brown; Clerk Josie Delvin; District Court Administrator Jacki Lahtinen; Bob Woody, IT Department; GIS Manager Mary Phillips; Superior Court Administrator Pat Austin; Superior Court Judge Bob Swisher; RJ Lott, Planning; Kyle Sullivan, Human Services; Superior Court Judge Cameron Mitchell.

Approval of Minutes

The Minutes of October 20, 2015 were approved.

Consent Agenda

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

Auditor

- a. Surplus of Personal Property

Commissioners

- b. Line Item Transfer, Fund No. 0305-101, Dept. 000

Fairgrounds

- c. Payment to Richardson's Garage Doors, Inc. for Emergency Repair
- d. Line Item Transfer, Fund No. 0124-101, Dept. 000

Human Services

- e. Agreement, #15/16-SA-CDHS-00, w/Central Washington Comprehensive Mental Health for Substance Abuse Treatment
- f. Agreement, #15/16-SA-LCC-00, w/Our Lady of Lourdes Hospital for Substance Abuse Treatment
- g. Agreement, #15/16-SA-NECC-00, w/Nueva Esperanza Counseling Center for Substance Abuse Treatment

h. Salary Request Statement

Information Technology

i. Purchase of Dell PowerEdge R730 Server

Office of Public Defense

j. Amended District Court Public Defense Contract w/S Johnson

Personnel

k. Payment Authorization to Summit Law for Discrimination & Sexual Harassment Training

Prosecuting Attorney

l. Purchase of Law Books from Thomson Reuters

Public Hearing - Ordinance Amendment BCC 11.16A.030(f)

Mike Shuttleworth said the public hearing was in follow up to an emergency interim zoning amendment to prohibit the production of marijuana in the Rural Lands Five Acre District and was for the Board to consider an ordinance that would permanently prohibit marijuana production in the Rural Lands 5 zoning. He said the Planning Commission recommended approval.

He presented and entered into the record four additional exhibits that were received since the Planning Commission hearing:

- CCH 1.1: Email from Jim Medler
- CCH 1.2: Letter from Joan Crager
- CCH 1.3: Email from Angie Schwartz
- CCH 1.4: Email from Terry/Jacqueline Lindblom
- CCH 1.5: Letter from Keith and Terry Burkhart

Public Testimony

Jim Bauer, Clodfelter Road, spoke in favor of the ordinance as presented and requested the Board approve it. He discussed the negative impacts of marijuana production in the RL 5 zone including criminal activity, the odor, high resolution cameras, and negative property value impacts.

Brad Klippert, Benton County resident and employee of Benton County Sheriff's office, said he sought permission from his supervisors to attend the hearing but he present only representing himself and was in favor of the ordinance as presented. He discussed Senate Bill 5052 that was passed and allowed cities, towns and counties to enforce penalties including abatement. He thanked the Board for considering this ordinance and gave statistics regarding the negative impacts of marijuana.

Judy Packard, Clodfelter Road, said she knew the County could not deal with all the marijuana issues but was strongly in favor of the ordinance because she did not feel the RL 5 zone was appropriate since they were dealing with neighborhoods.

Lloyd Becker, Richland, spoke in opposition to the ordinance and said he was in favor of following state law. He said he attending all the planning commission meetings and it seemed they were

some that were hesitant and not all in favor. He said he read the law and did not see where the Commissioners had the authority to prohibit production.

Chairman Delvin encouraged him to read the new bill that was passed that allowed counties and cities to take action on 5 acres or less.

Newell Crary spoke in favor of the ordinance and expressed concern that others were coming to Benton County to grow because they could not get a permit in their own county and that Benton County would become the marijuana mecca of the state.

Rodney Lechtel said he was in favor of the endorsement on marijuana and that Benton County originally endorsed marijuana on its web page. Benton County had several farms already going on 5 acre land and he understood Clodfelter Road was a neighborhood and that people had a right to come and object but that in Finley it was being endorsed. He said they could let the residents come and speak on individual farms but believed that some folks were being represented and others were not. He said there was a larger problem with pharmaceuticals and was in favor of it as it was state sanctioned.

There being no further testimony, the public hearing was closed.

MOTION: Commissioner Small moved to approve the amendment to BCC 11.16A.030(f) as proposed in the ordinance and adopt the Planning Commission's findings of fact and conclusions. Commissioner Beaver seconded.

Discussion

Commissioner Small reiterated that when this was first passed, they received multiple directions on how to proceed and warned against being sued. He said if Washington would have used the language from Colorado that allowed cities and counties to opt out and allow indoor grows, they would not be having some of these problems. He said the last thing he thought he would be dealing with in this job was the legalization of marijuana and they were just trying to deal with this and do their due diligence.

Commissioner Beaver thanked everyone for testifying and said this particular issue was a moving target and this would not be the end and believed it would continue to be amended. He said it was a good example of what passing an initiative without education could do to a state. He mentioned that no one came to testify when they had the first public hearing on this ordinance and there was nothing that stated Benton County endorsed it and he was pretty sure Benton County voted no. He said he didn't want it around schools but they would fight the battle legally.

Commissioner Small said that 65% of the vote that passed this was on the west side; 85% of the voters turn out on the west side but only about 55% here so he encouraged everyone to get out and vote and encourage others to do the same.

Chairman Delvin thanked Senator Ann River for assisting with the legislation to give the county the authority and the law to do what they needed to do.

Upon vote, the motion carried.

The Board briefly recessed, reconvening 9:36 a.m.

Public Hearing - Repealing Ordinance 561

Mike Shuttleworth said that Ordinance 561 adopted the emergency moratorium on production of marijuana in RL 5 zone and since the Board just passed the permanent ordinance, the emergency moratorium was no longer needed.

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

MOTION: Commissioner Beaver moved to approve repealing Ordinance 561 as proposed. Commissioner Small seconded and upon vote, the motion carried.

2015-2016 Bi-County Non-Bargaining Wage Adjustment

David Sparks said it had been a very long process to get this approved and they now had three out of four bi-county union agreements signed. He said the resolution approved a 3.25% COLA effective November 1 and 3% COLA effective January 1. He indicated it was slightly higher than Benton County non-bargaining employees but it had been 5 or 6 years since Franklin County had been able to afford a wage increase. Additionally, since they had zero adjustment to their wages it included a 13% one-time payment equivalent to retro back to January. He indicated he would not support any more one-time payments going forward because they offered 3% back in January. He said it still did not come close to putting them on the same wage scale as Benton County and it would take a while to get the wage where it should be. He said that Franklin County continued to deny the VEBA program but they supported Human Services VEBA at the full amount so it should be addressed; there was a huge disparity (Benton County paid 100% of VEBA for bi-county employees and Franklin County paid zero) and bi-county employees got a significant less benefit coverage than Benton County as well.

Chairman Delvin said these employees would have received the increase in January if it weren't for two individuals from Franklin County involved in the negotiations; once they were removed from the negotiations it moved forward. He said he appreciated the hard work David and his team put in on this issue.

MOTION: Commissioner Small moved to approve the resolution adopting the 2015-2016 Bi-County Non-Bargaining Wage Adjustment as presented. Commissioner Beaver seconded.

Discussion

Commissioner Beaver said he was curious at what point Franklin County became self-sufficient because he did not believe that Benton County should continue to pay for these things when Franklin County was not.

Chairman Delvin commented that Mr. Sparks was talking with the new Franklin County Administrator and also discussing OPD and if Benton County was going to administrate their program, they would need to pay administration fees. He said he believed they knew the free ride was over and that Benton County need not supplant Franklin County. He said he hoped that it would continue as they went forward on these joint operations for administration costs to be considered.

Commissioner Small said the county administrator, deputy administrator, and a commissioner had been working on these bi-county issues.

Mr. Sparks said Franklin County was not paying administrative costs (Benton County paid 100%) and effective January 1 Mr. Hsu in OPD would not provide those services. They were working on conditions for Benton County to provide administrative services and OPD costs and have a more appropriate 100% cost recovery. Benton County was providing a service (they were a customer) and they could have the service or not. He added that unfortunately the other bi-county services were jointly ran but he hoped to get it addressed soon and were waiting for a response from Franklin County.

Upon vote, the motion carried.

Human Services - Termination of Agreement – J. Dorsett

Kyle Sullivan presented a resolution and letter terminating the contract with Jennifer Dorsett. He said she recently received another grant and could not have the same fiscal agent and she was a requesting a new fiscal agent.

MOTION: Commissioner Small moved to approve the resolution and letter terminating the agreement between Human Services and Jennifer Dorsett. Commissioner Beaver seconded and upon vote, the motion carried.

Grant Award – Dept. of Ecology and Sheriff’s Work Crew Program

Lt. Guerrero via/videoconference said the Sheriff’s office applied and was awarded grant funding for the Sheriff’s work crew. He said one of the work crews was assigned part time to the Dept. of Ecology and the other time was to Benton County.

Mr. Sparks said the grant supported half of a work crew.

MOTION: Commissioner Beaver moved to approve the grant award between the Dept. of Ecology and Sheriff’s office as presented. Commissioner Small seconded and upon vote the motion carried.

Other Business

Superior Court – Odyssey Program

Judge Mitchell and Judge Swisher said they wanted to follow up on the previous conversations regarding this issue. Judge Swisher said they appeared at a meeting when one of the commissioners was gone because the meeting immediately prior to that there was a comment and discussion about IT and court staff directing Benton County staff to take action; he said they appeared because they thought the Board needed input, not to avoid a commissioner.

He said they were aware of the Board's position that Benton County should not fund anything in Franklin County. He said that court staff was working with administration and IT to develop an interlocal agreement and they thought they were doing what the Board wanted so that Franklin County paid its fair share.

Judge Swisher said following that meeting he met with David Sparks and Loretta Smith Kelty, along with Pat Austin and discussed how to proceed regarding IT services. He said that Mr. Sparks suggested the Court get its own network and server, etc. and he believed Robert Heard was directed to get some dollar figures. Mr. Sparks said there was a new version of the estimated cost but he hadn't had a chance to review it yet.

Judge Swisher said that Benton County was going to Odyssey as a late adopter in 2018, which was mandated by the State. He talked about costs (integration and subscriber costs) and said an interlocal agreement would be required to proceed with Franklin County.

Commissioner Beaver said if the State said they had to do it, he was not hung up on that but he was cautious when the State said they were there to help. He expressed concern about it being the right program and if there were bugs in the program.

Judge Swisher said Franklin County was adopting the Odyssey program now and that required some changes to Benton County computers in the Judges' chambers. Commissioner Beaver said he appreciated that the judges understood the Board's concerns but he was still concerned about Franklin County moving in a direction that Benton County was not.

Chairman Delvin said he was frustrated because he didn't understand why they were talking about Odyssey in Benton County if they were not adopting right now. He said he had looked at the agreement with the State and there were expenses associated that the State wasn't going to pay and he was not sold completely on the Odyssey program. He said the State did not have a good track record for IT and he thought that Franklin County IT would be looking at it.

Judge Mitchell commented that in order for Franklin County IT to do that work, they would have to get permission to work on the judges' computers. Mr. Sparks said that was correct, they would have to be able to access it and whether or not Benton County went on Odyssey, at some point the judges would have to look at Odyssey on Benton County's network. He said the interlocal agreement was not ever talked about in front of the Board.

The Board agreed to move forward with an interlocal agreement to address this issue.

Judge Swisher commented that he believed the citizens were better served by the joint judicial district even though it was harder on the administration.

Judge Mitchell said he appreciated what was happening and the Board trying to facilitate moving this forward.

Commissioner Small reminded the Board about the special meeting scheduled at the Justice Center at 6:30 p.m.

Commissioner Beaver reported on the Council of Governments and Jr. Achievement grand opening for a building that had material and labor donated by local contractors.

Chairman Delvin said he appreciated Commissioner Small's indulgence on the retail marijuana issue and that he wanted to work through that instead of having a blanket moratorium.

Chairman Delvin said he wanted a clear understanding of the costs of incarcerating individuals in reference to the LFO lawsuit. He asked for it to include work crew, revenue from collection of fines, restitution, and what the money collected paid for in the county; he said he wanted a total financial cost of these programs and whether the taxpayers benefitted.

Mr. Sparks said he would work on that and would run some numbers with District Court and the Sheriff's office regarding work crew and removing people from the jail, impact to the cities, costs of the jail and the bed day rate; he would look into all aspects.

Commissioner Beaver said he wanted to hear the rest of the story (there were a series of victims and their story was not told). If someone had a multitude of felonies, he was pretty sure his neighbors wouldn't be mad they were in jail.

Vouchers

Check Date: 10/09/2015

Procurement Cards: #1015
Total all funds: \$259,103.38

Check Date: 10/16/2015

Transfers #: 10161501-10161507, 10161509, 10161511-10161515
Total all funds: \$522,917.27

Warrant #: 129120-129285
Total all funds: \$768,714.29

Check Date: 10/23/2015

Transfers #: 10231501-10231513
Total all funds: \$1,767,361.35

Warrants #: 129410-129535
Total all funds: \$3,100.97

Warrants #: 129536-129668
Total all funds: \$452,822.43

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

Resolutions

- 2015-759: Surplus of Personal Property
- 2015-760: Line Item Transfer, Fund No. 0305-101, Dept. 000
- 2015-761: Payment to Richardson's Garage Doors, Inc. for Emergency Repair
- 2015-762: Line Item Transfer, Fund No. 0124-101, Dept. 000
- 2015-763: Agreement, #15/16-SA-CDHS-00, w/Central Washington Comprehensive Mental Health for Substance Abuse Treatment
- 2015-764: Agreement, #15/16-SA-LCC-00, w/Our Lady of Lourdes Hospital for Substance Abuse Treatment
- 2015-765: Agreement, #15/16-SA-NECC-00, w/Nueva Esperanza Counseling Center for Substance Abuse Treatment
- 2015-766: Purchase of Dell PowerEdge R730 Server
- 2015-767: Amended District Court Public Defense Contract w/S Johnson
- 2015-768: Payment Authorization to Summit Law for Discrimination & Sexual Harassment Training
- 2015-769: Purchase of Law Books from Thomson Reuters
- 2015-770: Adoption of Ordinance 565
- 2015-771: Repealing Ordinance 561
- 2015-772: Wage Increase and Insurance – Bi-County Non-Barg Employees
- 2015-773: Termination of Agreement Between Human Services and Jennifer Dorsett
- 2015-774: Grant Award – WA Dept. of Ecology and Sheriff's Office – Work Crew

There being no further business before the Board, the meeting adjourned at approximately 10:36 a.m.

Clerk of the Board

Chairman