

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
January 26, 2009, 9:00 am.
Commissioners' Conference Room
Benton County Courthouse, Prosser, WA

Present: Chairman Max E. Benitz, Jr. Chairman
Commissioner Jim Beaver
Clerk of the Board Cami McKenzie

Absent: Commissioner Leo Bowman (excused for committee assignment - PEDDA)
County Administrator David Sparks (excused)

Benton County Employees Present During All or a Portion of the Meeting: Deputy Administrator Loretta Smith Keltz; Adam Fyall, Community Development Coordinator; Finance Manager Linda Ivey; Personnel Manager Melina Wenner; Facilities Manager Roy Rogers; DPA Ryan Brown; Planning Manager Mike Shuttleworth; Susan Walker, Planning; PA Andy Miller; Margaret Ault, PA's Office; Public Works Director Ross Dunfee; Treasurer Duane Davidson.

Approval of Minutes

The Minutes of January 12, January 14, and January 21, 2009 were approved.

Consent Agenda

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

Facilities

- a. Notice of Completion – Construction of Courtroom TI Project @ Justice Center
- b. Notice of Completion – Haworth Office Furniture/Jury Chairs for Courtroom TI Project
- c. Lease Agreement w/Gold Wing Road Riders Association, Inc.
- d. Lease Agreement w/Franklin County Farm Bureau
- e. Contract Amendment, 307/09-DD-PHG-1, w/The Provident Horizon Group
- f. Contract Amendment, #07/09-DD-CDC-1, w/Children's Development Center
- g. Contract Amendment, #07/09-DD-ARC w/ARC of Tri-Cities
- h. Contract Amendment, w/Netsmart Ohio, Inc.
- i. Contract w/Benton Franklin Community Action Committee
- j. Amendment #07/09-DD-CI-01 w/Columbia Industries
- k. Amendment #07/09-DD-GW-01 w/Goodwill Industries

- l. Amendment #07/09/DD-PTC-01 w/Peopleworks Tri-Cities
- m. Amendment #07/09-RES-LCC w/Lourdes Counseling Center
- n. Personal Services Contract w/Tri-Cities Chaplaincy

Office of Public Defense

- o. Payment for Professional Services and Fees for M Iaria, Amending Resolution 08-829
- p. Authorization to Sign Expenditures for OPD; Rescinding Resolution 08-339
- q. District Court Defense Contract w/C Harkins
- r. District Court Defense Contract w/R Swinburnson

Personnel

- s. Position Classifications and Grades
- t. Personal Service Contract w/All-Safe Abatement

Road/Engineer

- u. E. R. & R. Fund Equipment Rental Rates
- v. Underpass Agreement w/BNSF Railway Company – Webber Canyon & Kiona
- w. Agreement w/City of West Richland to Seal Coat Roads
- x. Agreement w/City of Prosser to Allocate SAFETEA-LU Funds
- y. Local Agency Agreement Supplement w/WA St DOT – Webber Canyon Road
- z. Project Prospectus w/DOT – Horse Heaven Vista
- aa. Local Agency Agreement Supplement w/WA St DOT – Horse Heaven Vista
- bb. Local Agency Environmental Classification Summary w/ WA St DOT – Horse Heaven Vista
- cc. C.R.I.D. #16, Spirit Lane, Property Consolidation
- dd. Webber Canyon Road Bid Award

Sheriff

- ee. Authorization to Purchase Paper Supplies for the Benton County Jail

Sustainable Development

- ff. Annual Contract w/Department of Ecology

Treasurer

- gg. Canceling Uncollectible Taxes Assessed Upon Personal Property
- hh. Line Item Transfer, Fund No. 0000-101, Dept. 124

The Board briefly recessed, reconvening at 9:05 a.m.

Continued Public Hearing - 2008 Comprehensive Plan Amendments

CPA – 07-02

Mike Shuttleworth entered Exhibits “A” through “U” into the record. He indicated this was a continued public hearing for the request to change the land use designation from RL5 to RL1 on approximately 1,120 acres southwest of the I-82 Interchange and Badger Road.

Proponents

Thayne Wisner said that he and Mr. Sullins made the application together in 2006 for 2007 comprehensive plan amendments and that was important due to policies in effect at that time.

He said that 1 and 2.5 acre densities were allowable at that time. He indicated that landowners had been very successful and put in 300 homes on 1 acre lots and they had preserved the rural element and recommended the Board approve it. He said he received a copy of the email from Leo Bowman and concurred with his summary.

John Ziobro, attorney for applicants, asked if Commissioner Bowman's opinion would be allowed as a vote and the Chairman stated it would not. Mr. Ziobro said he believed the County had the authority to permit one-acre lots. Additionally, if the Board approved Motion Option #3 that required a further evaluation of RL 2.5, the Board should permit the same evaluation for one acre lots. He said he believed there was a way to make it work and asked that it be sent back to staff for some analysis.

Clarence Bumgartner spoke in favor of the proposal and said it was a good project and meant a lot of money to Benton County.

John Sullins, applicant, asked the Commissioners to strongly consider approving this request since it was a proven successful development.

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

MOTION: Commissioner Beaver moved that Comprehensive Plan Amendment Application File # CPA 07-02, the proposal to change the land use designation from Rural Lands Five (RL-5) to Rural Lands One (RL-1) to be approved, and that the Chairman of the Board in conjunction with the Planning Department prepare written findings and conclusions reflecting the Board's decision to approve Comprehensive Plan Amendment Application CPA 07-02, that articulate and are consistent with the findings and conclusions made by the Board. Chairman Benitz seconded.

Discussion

Commissioner Beaver said he was familiar with how land use designations changed and that cities were always trying to maximize the one-acre lots with more density. He said the County needed to continue to build areas in the community that met the needs and could look at Benton County as a whole as they continued to build. He then read comments into the record from Leo Bowman (Exhibit U).

Chairman Benitz requested a three-minute recess.

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

Chairman Benitz said he had looked at the land being proposed and believed it did not meet the legislative exception for more rural intensive development. He said he agreed the County needed more homes but it should be in compliance with the law.

Upon vote, the motion failed with Commissioner Beaver voting yes and Chairman Benitz opposing.

CPA 08-01

Mike Shuttleworth entered the Exhibits “A” through “K” into the record.

He stated it was a continued public hearing by Wayne Penttila to change the existing land use designation of Heavy Industrial to Rural Lands 5.

Proponents

Wayne Penttila, applicant, summarized and spoke in favor and said he was asking to do something productive with the property, instead of letting it sit vacant.

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

MOTION: Commissioner Beaver moved to approve that Comprehensive Plan Amendment Application File #CPA 08-01, the proposal to change the land use designation from Heavy Industrial to Rural lands Five (RL-5) be approved and the Chairman of the Board in conjunction with the Planning Department prepare written findings and conclusions reflecting the Board’s decision to approve Comprehensive Plan Amendment Application CPA 08-01 that articulate and are consistent with the findings and conclusions made by the Board. Chairman Benitz seconded.

Discussion

Commissioner Beaver said the County needed to move forward with proposals that landowners could do something with and build better places.

Chairman Benitz said the surrounding areas were in rural residential zones and he would support the application.

Upon vote, the motion carried.

CPA 08-02

Mr. Shuttleworth entered Exhibits “A” through “P” into the record. He then stated it was a continued public hearing to consider the City of West Richland’s proposal to include an additional 747 acres of land into its Urban Growth Area.

Proponents

Dale Jackson, W. Richland Mayor, said the City had submitted its written summary of the proposal and stated his belief the County had the discretion to approve the inclusion of the 747 acres.

Chuck Dawsey, Benton REA, said he was in support of the expansion and that West Richland was the only city from Seattle to Tri-Cities that did not have interstate access. He said they

supported the application because it would include the Red Mountain Interchange, provide opportunity for the Red Mountain AVA to expand, and allow West Richland to become a city of its own with interstate access.

Calvin Dudney, Port of Kennewick, spoke in support of the application. He indicated it would protect the Red Mountain AVA and its value, promote economic development with the interchange, and said there were very few places that existed for commercial and light industrial development.

Dan Cryer, Port of Kennewick, read the Port Commissioners letter (Exhibit "K") into the record and spoke in favor.

Opponents

Susan Swanson said she previously submitted a letter and was opposed to the application. She said the application centered on the interstate and the expectation it would be there, but the interstate was a separate issue. She requested the proposal be denied.

Lloyd Coughlin spoke in opposition and said the current areas in the UGA were not being developed and he requested the Board deny the application.

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

MOTION: Commissioner Beaver moved to approve the Comprehensive Plan Amendment Application File CPA 08-02, the proposal to include 747 acres into the West Richland UGA and the Chairman of the Board, in conjunction with the Planning Department prepare written findings and conclusions reflecting the Board's decision to approve Comprehensive Plan Amendment Application CPA 08-02 that articulate and are consistent with the findings and conclusions made by the Board. Chairman Benitz seconded.

Discussion

Commissioner Beaver said he wanted to give West Richland an opportunity to create a vision, even during tough economic times.

Chairman Benitz said the first urban growth plan was adopted in 1990 and it was tough to draw a line in the sand and say it could not be changed due to changes in the economy. He indicated the intent of the growth management act was to encourage economic development and it was vitally important and he had considered the impact on the interchange and its enhancement of economic development.

Upon vote, the motion carried.

CPA 08-04

Mike Shuttleworth entered Exhibits A-E into the record. He said the amendments proposed were changes to the Benton County Comprehensive Plan.

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

MOTION: Commissioner Beaver moved to approve Comprehensive Plan Amendment Application CPA 08-04, the proposal for additions and changes to Tables 9.0 and 9.1 of Chapter Nine, the Capital Facilities Element of the Benton County Comprehensive Plan and the Board adopt the Planning Commission's Findings of Fact as their own. Chairman Benitz seconded and upon vote, the motion carried.

CPA 08-05

Mr. Shuttleworth entered Exhibits A-E into the record.

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

MOTION: Commissioner Beaver moved to approve Comprehensive Plan Amendment Application CPA 08-05, the proposal for edits to text in Benton County Comprehensive Plan and adopt the Planning Commission's Findings of Fact as their own. Chairman Benitz seconded and upon vote, the motion carried.

The Board briefly recessed, reconvening at 10:15 a.m.

Crow Butte Report

The Port of Benton gave its annual report that included the following projects completed in 2008:

- Replace and Improve Electrical & RV Pedestals
- Slurry Seal and Restripe Marine Parking Lots; Crack Seal Roads
- Replace and Upgrade Waters Heaters; RV & Day Use
- Upgrade Lighting in Marina and Dump Station
- Extend Concrete Patio at Concession Area
- Replace Broken Windscreens
- Upgrade Landscaping at Dump Station
- Office Remodel

Additionally, the Port asked the Board to consider extending its contribution beyond 2009.

The Board briefly recessed, reconvening at 10:30 a.m.

Public Hearing – Application for Franchise – Roza Heights Water

Sue Schuetz said they received a petition for nonexclusive franchise to place water lines within Benton County road right of way. She said her office recommended approval, based upon current franchise requirements.

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

MOTION: Commissioner Beaver moved to approve the petition of Roza Heights Water for a nonexclusive franchise to place water lines within Benton County road right of way with the listed conditions. Chairman Benitz seconded and upon vote, the motion carried.

The Board briefly recessed, reconvening at 10:35 a.m.

Zone Change Request – ZC 08-01

Mike Shuttleworth presented the zone change request filed by Badger Properties II LLC and said the Planning Commission voted to recommend approval of the zone change application.

MOTION: Commissioner Beaver moved to approve the Zone Change Request ZC 08-01 and adopt the Planning Commission’s findings of fact. Chairman Benitz seconded and upon vote, the motion carried.

The Board briefly recessed, reconvening at 10:45 a.m.

Ordinance Amendment – BCC Chapter 11.54

Mike Shuttleworth said the Planning Commission had completed its open record hearing on the proposed ordinance amendment to BCC Chapter 11.54 and voted to recommend approval. He said the proposal was to bring current the rules adopted by the State regarding administration and disposition of infractions.

MOTION: Commissioner Beaver moved to approve the ordinance amendment to BCC Chapter 11.54 and adopt the Planning Commissions Recommendations, Findings and Conclusions. Chairman Benitz seconded and upon vote, the motion carried.

The Board recessed, reconvening at 10:50 a.m.

Public Hearing – Supplemental Appropriation

Linda Ivey summarized the request by the PA’s office for a supplemental appropriation.

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

MOTION: Commissioner Beaver moved to approve the supplemental appropriation to the 2009 Current Expense Fund, Prosecutor's Office, Dept. 117 in the amount of \$74,054. Chairman Benitz seconded and upon vote, the motion carried.

The Board briefly recessed, reconvening at 11:00 a.m.

Final Plat of Summit View Phase 6

Mike Shuttleworth presented the final phase for approval and stated they had completed the 21 conditions of approval.

MOTION: Commissioner Beaver moved to approve the final plat of Summit View Phase 6 SUB 08-02. Chairman Benitz seconded and upon vote, the motion carried.

Other Business

Appointment of 16th Legislative District Position

The Board discussed possible dates to meet with the other counties regarding the appointment and agreed on February 20, 2009 at 1:30 p.m. in Walla Walla County. The Board requested Ms. Smith Kelty respond back regarding a date.

Claim for Damages

- CC 09-01: Received on January 16, 2009 from Arnold Orozco for damage to his vehicle.
- CC 09-02: Received on January 20, 2009 from William Blaine for injuries sustained from an automobile accident.

Vouchers

Check Date: 01/09/2009
Warrant #: 914762-914978
Total all funds: \$376,653.46

Check Date: 01/15/2009
Taxes # 10109014-10109015
Total all funds: \$35,972.10

Check Date: 01/15/2009
Warrant # 221807-222051
Total all funds: \$111,265.38

Check Date: 01/16/2009
Warrant # 915083-915181
Total all funds: \$1,499,963.33

Check Date: 01/23/2009
Warrant # 915829-91674
Total all funds: \$1,653,651.66

Check Date: 01/23/2009
Warrant # 915183-915593
Total all funds: \$10,324.07

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

Resolutions

- 09-038: Notice of Completion – Construction of Courtroom TI Project @ Justice Center
- 09-039: Notice of Completion – Haworth Office Furniture/Jury Chairs for Courtroom TI Project
- 09-040: Lease Agreement w/Gold Wing Road Riders Association, Inc.
- 09-041: Lease Agreement w/Franklin County Farm Bureau
- 09-042: Contract Amendment, 307/09-DD-PHG-1, w/The Provident Horizon Group
- 09-043: Contract Amendment, #07/09-DD-CDC-1, w/Children's Development Center
- 09-044: Contract Amendment, #07/09-DD-ARC w/ARC of Tri-Cities
- 09-045: Contract Amendment, w/Netsmart Ohio, Inc.
- 09-046: Contract w/Benton Franklin Community Action Committee
- 09-047: Amendment #07/09-DD-CI-01 w/Columbia Industries
- 09-048: Amendment #07/09-DD-GW-01 w/Goodwill Industries
- 09-049: Amendment #07/09-DD-PTC-01 w/Peopleworks Tri-Cities
- 09-050: Amendment #07/09-RES-LCC w/Lourdes Counseling Center
- 09-051: Personal Services Contract w/Tri-Cities Chaplaincy
- 09-052: Payment for Professional Services and Fees for M Iaria, Amending Resolution 08-829
- 09-053: Authorization to Sign Expenditures for OPD; Rescinding Resolution 08-339
- 09-054: District Court Defense Contract w/C Harkins
- 09-055: District Court Defense Contract w/R Swinburnson
- 09-056: Freeze for Evaluation and Approval Position Classifications and Grades
- 09-057: Personal Service Contract w/All-Safe Abatement
- 09-058: E.R. & R. Fund Equipment Rental Rates
- 09-059: Underpass Agreement w/BNSF Railway Company – Webber Canyon & Kiona
- 09-060: Agreement w/City of West Richland to Seal Coat Roads
- 09-061: Agreement w/City of Prosser to Allocate SAFETEA-LU Funds
- 09-062: Local Agency Agreement Supplement w/WA St DOT – Webber Canyon Road
- 09-063: Project Prospectus w/DOT – Horse Heaven Vista
- 09-064: Local Agency Agreement Supplement w/WA St DOT – Horse Heaven Vista
- 09-065: Local Agency Environmental Classification Summary w/ WA St DOT – Horse Heaven Vista
- 09-066: C.R.I.D. #16, Spirit Lane, Property Consolidation
- 09-067: Webber Canyon Road Bid Award
- 09-068: Authorization to Purchase Paper Supplies for the Benton County Jail

- 09-069: Annual Contract w/Department of Ecology
- 09-070: Canceling Uncollectible Taxes Assessed Upon Personal Property
- 09-071: Line Item Transfer, Fund No. 0000-101, Dept. 124
- 09-072: Approval of ZC 08-01
- 09-073: Approval of Ordinance Relating to Zoning and to the Administration and Disposition of Infractions
- 09-074: Approval of Supplemental Appropriation, Current Expense, Dept. 117, \$74,054
- 09-075: Approval of Final Plat of Summit view Phase 6 – SUB 08-02

There being no further business before the Board, the meeting adjourned at approximately 11:05 a.m.

Clerk of the Board

Chairman