

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Special Board Meeting
Wednesday, May 19, 2010, 9:00 a.m.
Commissioners' Conference Room
Benton County Justice Center, Kennewick, WA

Present: Chairman James Beaver
Commissioner Leo Bowman
Commissioner Max E. Benitz, Jr.
County Administrator David Sparks
Clerk of the Board Cami McKenzie

Benton County Employees Present During All or a Portion of the Meeting: Adam Fyall, Community Development Coordinator; Finance Manager Keith Mercer; Building Manager Steve Brown; Planning Manager Mike Shuttleworth; Public Works Manager Steve Becken; Fire Marshal Ken Williams; Valerie Smith, RJ Lott, and Clark Posey, Planning Staff.

Private Access Easements - Workshop

Mike Shuttleworth said that private access easements have been an issue for years. However, they serve a purpose for properties that might not be able to have county road access. He said the zoning code stated there had to be a perpetual access easement in order to build, meaning everyone could use it.

Steve Becken said his office was constantly receiving calls that landowners wanted the County to maintain the driveways. He said they were private and not the County's responsibility to maintain. He said they would like to see private access easements go away.

Steve Brown said that maintenance was not Benton County's responsibility. He discussed the building permit process and that building permits shall not be issued until certain requirements were met and the applicant must sign a declaration that the road is constructed or will be constructed.

Ken Williams said when complaints are received in his office they advise it is a private property issue.

Chairman Beaver said it appeared the County required a road when the permit and short plats were issued. However, the issue appears to be what happened over time with a change of ownership and maintenance of the road, etc.

Commissioner Bowman asked what they were trying to resolve today and whether it was an emergency access issue.

Steve Brown said changing the policy would not correct any current access easement problems. However, the County could force them to build a new county standard road for any new permits.

David Sparks said one of the issues seemed to be policing and the requirement stated the owner shall maintain but the County did not police the issue.

Commissioner Bowman said if they required a county standard road for every road, it would prohibit development. Additionally, if the problem they were trying to solve was emergency response, maybe it should be enforced.

Mr. Shuttleworth said that 90% of the owners maintained their easements, so they were talking about the 10% that didn't. However, the County was hearing from that 10%. He said they could require a maintenance agreement, but did the County want to be the "maintenance agreement cop". He said there were trends happening with banks requiring agreements before loaning money for property with private access easements.

Fire Chief Spring spoke on behalf of the county fire districts. Chief Spring said the adopted fire code standard gave the fire marshal the ability to enforce the requirement to maintain the roads. He said the County had the responsibility and authority to enforce the issue. He said it was a huge concern to the fire districts because they had a problem responding to emergencies and they were willing to put staff hours into resolving this issue. He suggested they come together with the Fire Marshal and Ryan Brown to form a task force and work out a resolution. He said they believed they only needed to act on the complaints and need not be the gravel police. He said they could first talk to the landowners and then issue a violation with the fire code in place if they did not take the corrective action.

Ken Williams said that section was exempted and left up to the county to set its own standards and the standards do not include maintenance.

Commissioner Benitz said that construction and maintenance was currently the responsibility of the private landowner and believed it was a private property rights issue. He said he was in favor of getting the fire chiefs, prosecuting attorney, county departments and others together to make sure emergency response was taken care of. However, he was not in favor of changing anything until he knew what the solution was and he was in favor of maintaining those private property rights.

Commissioner Bowman asked if the issue had come up with other counties. Mr. Brown said that code enforcement for Walla Walla County Fire Marshal enforced those issues. Additionally, Mr. Williams said they did a comparison between Benton, Franklin, Yakima, and Walla Walla. He said they all consider it a private issue and Yakima and Walla Walla County require covenants.

The Board agreed it wanted some recommendations and solutions brought back and requested a summary of the workshop at the next Monday board meeting. Mr. Shuttleworth said he would follow up with David Sparks.

The meeting adjourned at approximately 10:00 a.m.

Clerk of the Board

Chairman