

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
September 8, 2009, 9:00 a.m.
Commissioners' Conference Room
Benton County Courthouse, Prosser, WA

Present: Chairman Max E. Benitz, Jr. Chairman
Commissioner Leo Bowman
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 Kely; Adam Fyall, Community Development Coordinator; Finance Manager Linda Ivey; Planning Manager Mike Shuttleworth; Jacki Lahtinen, Dixie Jameson, Reva Kirby, and Richard Cloud, District Court; Steve Becken and Malcom Bowie, Public Works; Nick Kooiker, Treasurer's Office; DPA Ryan Brown; Auditor Bobbie Gagner; Judge Bob Ingvalson; DPA Sarah Perry; Sheriff Larry Taylor.

Approval of Minutes

The Minutes of August 31, 2009 were approved as corrected.

Consent Agenda

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

Board of Equalization

- a. Appointment of L Peilstick

Commissioners

- b. National Day of Remembrance for Murder Victims

Facilities

- c. Contract w/Spilker Masonry Company

Fairgrounds

- d. Purchase of Water Truck

Human Services

- e. Custodian Appointment of Petty Cash Fund for Crisis Response Unit
- f. Custodian Appointment of Petty Cash Fund for Substance Abuse Assessment Center
- g. Custodian Appointment of Revolving Fund for Substance Abuse Assessment Center
- h. Agreement, #09/10-DD-PHG-00, w/Provident Horizon Group
- i. Agreement, #09/10-DD-CI-00, w/Columbia Industries

- j. Agreement, #09/10-PREV-JJC-00, w/BF Juvenile Justice - Strengthening Families Program

Juvenile

- k. Truancy Contract w/Pasco School District

Prosecuting Attorney

- l. Procurement of Office Furniture; Rescinding Resolution 09-358

Public Works

- m. Plan Authorizations for Johnson/Hinzerling Road/OIE H Intersection/Rothrock Rd/Foisy Rd/OIEH Intersection and N. River Road Curve
- n. Authorization to Proceed for Pavement Marking 2009
- o. Contract w/A & B Asphalt, Inc., for Webber Canyon Road, Phase 2
- p. Authorization of Expert Agreement w/E Takle, Ph.D.
- q. Reconstruction of Walter Road PRSE

Sheriff

- r. Line Item Transfer, Fund No. 0000101, Dept. 121

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

Health District - Discussion

Chairman Benitz presented a letter to Franklin County Commissioners regarding the status of the Health District building on Canal. The Board agreed to send the letter, along with a copy of the summary of the appraisal.

The Board briefly recessed, reconvening at 9:20 a.m.

District Court Judges Interviews

Chairman Benitz outlined the process and said that each applicant could give an opening statement and then would be asked a series of questions by the Board.

Daniel Kathren

Mr. Kathren said he had a unique background with a lifelong experience in public service and public administration. He said he had worked with the City of Richland on a few committees and has a good feel for how government worked. Additionally, his career as a public defender for 10 years and pro tem judge for 9 years had prepared him to step in as a judge. He said his judicial philosophy was first and foremost to serve the public.

Question: If you were appointed, what would be the biggest challenge in the first six months, how would you address those challenges, and what have you done to prepare yourself for those challenges?

Answer: He said you usually don't know what you are doing in the first six months. There are changes that need to be made, but he would not start making those changes in the first six months. Rather, he would look to be a member of the team by

building trusts and laying the foundation so the team could start making changes and building efficiencies. He said he had spent his whole career preparing for district court and he had excellent relationships with the judges, administration and staff.

Question: Why are you interested in becoming a judge and why should you be selected?

Answer: He said he had been interested for many years since the first time he was sworn in as a pro tem judge, his life was dedicated to public service, and this was another step up. He indicated he should be selected because of his unique background and experience in District Court.

Question: Please list in order of importance the top three character traits a district court judge should possess.

Answer: Integrity, commitment to serving the people, and a solid work ethic.

Question: What do you believe is your biggest weakness?

Answer: An abundance of passion. Sometimes being too excited gets in the way of my focus.

Question: What would you bring to District Court?

Answer: The character traits I previously listed, because I believe I have them and a lot of good ideas. He said he would work hard to achieve those ideas, that he valued efficiency, and had the background in working with local government and the ability to see the big picture.

Question: If you had the authority, what would you change about current district court policies and practices to improve its efficiency?

Answer: Write local court rules, credit cards (already happening), combine dockets, traffic mitigation docket at 8:00 a.m., and look closely at collection practices.

The Board briefly recessed, reconvening at 9:50 a.m.

Joseph Burrowes

Mr. Burrowes thanked the Board for the opportunity to have a second shot at the selection process. He said he had been a commissioner for 2 ½ years and he tried to bring to the bench respect and integrity. He said he had conducted himself as a public servant and it was rewarding to receive a call or letter from a parent thanking him for understanding their child's position.

Question: If you were appointed, what would be the biggest challenge in the first six months, how would you address those challenges, and what have you done to prepare yourself for those challenges?

Answer: He said the biggest challenge was the budget. He said he would recommend a self-assessment to cut costs, utilize technology, combine dockets, and install a code of conduct for judges to abide by. He said he believed that district court had been very efficient but the challenge is that different judges have individual thought processes and its needs to be communicated to educate the cities and County commissioners and he wanted to be part of the change.

Question: Why are you interested in becoming a judge and why should you be selected?

Answer: He said he had been a public servant for 30 years and wanted to live and work in this community and being judge could make a difference. He said he believed it was his calling to make a difference and district court was a unique place because of the volume of people that came through it.

Question: Please list in order of importance the top three character traits a district court judge should possess.

Answer: Integrity, honesty (always do the right thing and have candor to the court), and treat people with respect.

Question: What do you believe is your biggest weakness?

Answer: Openness and honesty about himself. He said he was a people person and sometimes less is more, however, it could also be a benefit.

Question: Independent thinking is sometimes considered an attribute. Do you consider yourself to be an independent thinker?

Answer: District Court has policies in place and if my independent thought was different, I would do the right thing at any given moment, but must take into consideration the consequences for the court and the cities.

Question: If you had the authority, what would you change about current district court policies and practices to improve its efficiency?

Answer: He said the biggest issue was adopting a code of conduct. Additionally, would adopt a mission statement and goals that we would all agree to and complete a self-assessment.

Question: Who would be involved in the self-assessment?

Answer: He said he would take a look at all the departments and ask employees to make suggestions to make things better and set up a team to assess either quarterly or yearly. Additionally, maybe have an independent from the outside help with the assessment.

The Board briefly recessed, reconvening at 10:20 a.m.

Katharine Butler

Ms. Butler said she started her law practice as a deputy prosecuting attorney and was excited at the possibility of becoming a full-time judge. She became a pro tem judge and part-time commissioner in Benton and Franklin Counties, as well as a hearings officer for the City of Pasco. She said as a trial lawyer she handled many high-profile cases and understood the public scrutiny and could bring experience to District Court. She said she lived in Benton County for 25 years and was ready to step up in a full-time capacity and her experience on a board in W. Richland and various capacities in the school district and church would also assist her to serve the people of Benton County as a district court judge.

Question: If you were appointed, what would be the biggest challenge in the first six months, how would you address those challenges, and what have you done to prepare yourself for those challenges?

Answer: She said the biggest challenge would be adapting from a pro-tem judge to a full-time judge and establishing her own policy in the way the courtroom might be handled.

Question: Why are you interested in becoming a judge and why should you be selected?

Answer: She said she would like to take what she has done as a pro tem and commissioner and grow in that capacity and would really enjoy being there on a daily basis. She said that all candidates were qualified but she was best suited because of her trial experience, community experience, personality, and how she functioned.

Question: Please list in order of importance the top three character traits a district court judge should possess.

Answer: Integrity (it is important to know the judge has integrity); respect (respect the people in front of you, no matter how small the matter); and remember the matter before you is important.

Question: What do you believe is your biggest weakness?

Answer: A very limited familiarity with the job system in the court (technology).

Question: Independent thinking is sometimes considered an attribute. Do you consider yourself to be an independent thinker?

Answer: I look at the case presented and research what the law says, consider myself an independent thinker, and make sure I personally believe what I am trying, presenting, or ruling on. However, if you mean always way out in left field, believe it is important to reach consensus.

Question: If you had the authority, what would you change about current district court policies and practices to improve its efficiency?

Answer: She said there were things to look at in District Court like whether to impose probation on every criminal case, which might help on compliance dockets; deferred findings; collection of fines in District Court; work crew (re-evaluate to see if more might be eligible for work crew).

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

David Petersen

Mr. Petersen said it was his desire to become a District Court judge for many reasons: it was a wonderful opportunity for himself and his family, and a fantastic job. He said he was a pro tem in many courts and this was an opportunity to be a public servant and he felt he would be an asset to the team. He said he believed in what he did and believed in the process and District Court was where most people had their day in court and that a judge was like a board member answering to the CEO of a \$10.7 million business.

Question: If you were appointed, what would be the biggest challenge in the first six months, how would you address those challenges, and what have you done to prepare yourself for those challenges?

Answer: Administrative duties as a judge would be his biggest challenge. He said he didn't fully appreciate the financial impacts of being a judge and understanding those concepts was a challenge. He said since the last interview he has been reviewing budgets and doing some analysis to better understand the budget. He said he would use his business sense to run an efficient business.

Question: Why are you interested in becoming a judge and why should you be selected?

Answer: He said he believed this was a phenomenal opportunity for him and his family and from the bench you have power to influence people's lives and the ability to impact county budgets and have a stake in what goes on. He said each of his colleagues were qualified, but his demeanor and personality was well received from prosecuting attorneys and public defenders and he possessed business skills from partnering in two law firms.

Question: Please list in order of importance the top three character traits a district court judge should possess.

Answer: Understanding (both applies to the bench and administration to hear people, not listen, digest and move forward); values and morals (something that drives everything you do, religious or not, an approach on life); and ability to make a decision. He said life is not fair and decisions can be hard but you have to be able to make a decision on the bench and as a judge you are in a position of doing good.

Question: What do you believe is your biggest weakness?

Answer: Administration of an office. He said he stood firm on his abilities on the bench and could overcome that weakness and looked forward to the challenge.

Question: Independent thinking is sometimes considered an attribute. Do you consider yourself to be an independent thinker?

Answer: He said it could be an attribute, although he didn't know if it was always an attribute. He said he believed District Court was a family and rogue independent thinking could be a detriment. He said that speaking your mind was one thing, but he would be skeptical of rogue without looking at the entire picture.

Question: If you had the authority, what would you change about current district court policies and practices to improve its efficiency?

Answer: He would improve efficiencies by requiring prosecuting and defense counsel to be prepared before court (a simple phone call before court could improve efficiencies in moving people through the docket). He said the County spent a lot on jail costs and thinks it could be looked at.

The Board briefly recessed, reconvening at 11:20 a.m.

District Court Judges – Decision and Appointment

MOTION: Commissioner Bowman moved to appoint Joseph Burrowes to the Elective Office of Benton County District Court Judge for District 4. Commissioner Beaver seconded and upon vote, the motion carried unanimously.

MOTION: Commissioner Beaver moved to appoint Katharine Butler to the Elective Office of Benton County District Court Judge for District 5. Commissioner Bowman seconded and upon vote, motion carried unanimously.

The Board briefly recessed, reconvening at 11:40 a.m.

Commissioner Bowman said he had erred in making the motion to appoint the individuals to a district instead of a position.

MOTION: Commissioner Bowman moved to appoint Joseph Burrowes to Benton County District Court Judge, Position 4 and Katharine Butler to Benton County District Court Judge, Position 5. Commissioner Beaver seconded and upon vote, the motion carried.

Executive Session – Pending Litigation

The Board went into executive session at 11:33 a.m. with DPA Ryan Brown for approximately 15 minutes to discuss pending litigation. Also present were Mike Shuttleworth, David Sparks, Loretta Smith Kelty and Cami McKenzie. The Board came out at 11:45 a.m. Mr. Brown announced the Board discussed pending litigation and that no action was taken.

Executive Session – Pending Litigation

At 11:46 a.m. the Board went into executive session with DPA Sarah Perry for approximately 10 minutes to discuss pending litigation. Also present were Sheriff Larry Taylor, DPA Ryan Brown, David Sparks, Loretta Smith Kelty, and Cami McKenzie. The Board came out at 11:54 a.m. Ms. Perry announced the Board discussed pending litigation, and that no action was taken.

Relocation Reimbursement Request

MOTION: Commissioner Bowman moved to approve the resolution authorizing the Benton County Employment Relocation Expense Agreement with Malcolm Bowie. Commissioner Beaver seconded and upon vote, the motion carried.

Vouchers

Check Date: 09/04/2009
Warrant #: 931969-932177
Total all funds: \$1,679,864.65

Check Date: 8/31/2009
Taxes #: 01010809
Total all funds: \$897.48

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

Resolutions

- 9.573 Appointment of L Peilstick
- 9.574 National Day of Remembrance for Murder Victims
- 9.575 Contract w/Spilker Masonry Company
- 9.576 Purchase of Water Truck
- 9.577 Custodian Appointment of Petty Cash Fund for Crisis Response Unit
- 9.578 Custodian Appointment of Petty Cash Fund for Substance Abuse Assessment Center

- 9.579 Custodian Appointment of Revolving Fund for Substance Abuse Assessment Center
- 9.580 Agreement, #09/10-DD-PHG-00, w/Provident Horizon Group
- 9.581 Agreement, #09/10-DD-CI-00, w/Columbia Industries
- 9.582 Agreement, #09/10-PREV-JJC-00, w/BF Juvenile Justice - Strengthening Families Program
- 9.583 Truancy Contract w/Pasco School District
- 9.584 Procurement of Office Furniture; Rescinding Resolution 09-358
- 9.585 Plan Authorizations for Johnson/Hinzerling Road/OIE H Intersection/Rothrock Rd/Foisy Rd/OIEH Intersection and N. River Road Curve
- 9.586 Authorization to Proceed for Pavement Marking 2009
- 9.587 Contract w/A & B Asphalt, Inc., for Webber Canyon Road, Phase 2
- 9.588 Authorization of Expert Agreement w/E Takle, Ph.D.
- 9.589 Reconstruction of Walter Road PRSE
- 9.590 Line Item Transfer, Fund No. 0000101, Dept. 121
- 9.591 Appointment of Joseph M. Burrowes to the Nonpartisan Elective Office Vacancy of Benton County District Court Judge, Position 4
- 9.592 Appointment of Katharine A. Butler to the Nonpartisan Elective Office Vacancy of Benton County District Court Judge, Position 5
- 9.593 Approving the Benton County Employment Relocation Expense Agreement with Malcolm Bowie

There being no further business before the Board, the meeting adjourned at approximately 12:00 p.m.

Clerk of the Board

Chairman