

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting  
March 23, 2009, 9:00 am.  
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 Kelty; Adam Fyall, Community Development Coordinator; Finance Manager Linda Ivey; Personnel Manager Melina Wenner; Facilities Manager Roy Rogers; Clerk Josie Delvin; District Court Administrator Jacki Lahtinen; Juvenile Administrator Sharon Paradis; Superior Court Judge Carrie Runge; Superior Court Administrator Pat Austin; Deputy Treasurer Erhiza Rivera; Public Works Director Ross Dunfee; Auditor Bobbie Gagner; Deputy Auditor Brenda Chilton; DPA Ryan Brown; District Court Judge Bob Ingvalson; Treasurer Duane Davidson; Steve Becken and Sue Schuetz, Public Works; Marianne Ophardt and Natalie Kinion, and DPA Sarah Perry.

**Approval of Minutes**

The Minutes of March 16, 2009 were approved.

**Consent Agenda**

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

Auditor

- a. Line Item Transfer, Fund No. 0106-101, Dept. 000
- b. Lease Renewal w/Fred Meyer Stores, Inc.

Commissioners

- c. Line Item Transfer, Fund No. 0305-101, Dept. 00

Facilities

- d. Contract w/Barrich, Inc., dba MPR Services for Grease Pumping & Cleaning

Fairgrounds

- e. Lease Agreement w/Rada Rabbits & Cavies 4-H Club

Office of Public Defense

- f. Approval of Payment to Defense Attorney, J Lilly for Professional Services Rendered

- g. Approval of Payment to Defense Attorney, G Ochoa for Professional Services Rendered
- h. Indigent Superior Court Service Agreement w/T Meehan-Corsi
- i. Service Agreement w/Administrative Office of Courts for Judicial Information System

Parks

- j. Service Contract w/Fowler General Construction, Inc. for Restroom Addition at Horn Rapids

Road/Engineer

- k. Travel Expense Reimbursements
- l. Approval of Project Amendment for Public Works Trust Fund Loan Agreement #PW-04-691-003
- m. Signature Authorization Form w/Washington State Military Department
- n. Approval of Interlocal Agreement w/City of Richland for Bituminous Surface Treatment
- o. Authorization to Purchase Traffic Sign Materials
- p. Approval of Supply Contract w/R.E. Powell Distributing for Refined Petroleum Products

Sheriff

- q. Authorization to Purchase Taser & Taser Accessories from WA State Contract No. 01003
- r. Authorization to Purchase Materials, Equipment & Supplies w/Crown Paper & Janitorial, Inc.
- s. Authorization to Purchase Paper Products w/Columbia Basin Paper & Supply

Treasurer

- t. Approval for Disbursements from the Historical Preservation Fund

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

**Status of Judiciary**

Superior Court Judge Carrie Runge, Pat Austin, and Sharon Paradis gave a status update on the judiciary and briefly discussed the following:

- Case filing information (concern about increased filing in juvenile dependency docket and need for second courtroom for Juvenile Court)
- Legal obligation docket
- Guardianship monitoring program
- Case management system
- Possibility of extending the juvenile court day
- State survey of Superior Court administrators (Benton-Franklin is the lowest paid on the list)

**Hanford/TRIDEC Discussion**

Carl Adrian and Gary Peterson, TRIDEC, briefed the Board on the following issues:

- American Recovery & Reinvestment Act – \$1.97 Billion to Hanford
- Omnibus Bill – \$146 million
- Footprint reduction of Hanford - looking at area for an “Energy Park” and “Research & Development” area
- Open public tours
- Concept for Smart Energy Community (promotion of low-carbon “green” resource development)

Commissioner Beaver said he wanted to see support from the federal government for local jurisdictions, possibly with a line item in the federal budget formula for Benton County as a mechanism for infrastructure improvements.

Chairman Benitz said the Board was looking at its role in economic development and it was important to get ahead of the curve so the County knew what to do when the money stopped coming.

Commissioner Bowman said he wanted to know if there was something else the Board should be doing to enhance the program. Mr. Adrian said that participation on the board and the ag committee was important, but there was room for additional participation. He suggested a “go-to” person in the County to bring information back to the Board on a regular basis and a land usage plan.

### **Trial Court Improvement Funds**

Pat Austin, Josie Delvin, and Jacki Lahtinen presented the recommendations by the Trial Court Improvement Committee for 2009 expenditures.

**MOTION:** Commissioner Bowman moved to approve the resolution authorizing the purchases as identified on the letter from the Trial Court Improvement Fund Committee for expenditures totaling \$53,876.00 from the Trial Court Improvement Fund. Commissioner Beaver seconded and upon vote, the motion carried.

**MOTION:** Commissioner Bowman moved to approve the resolution approving the line item transfer in the amount of \$53,133.00 within fund 0156-101. Commissioner Beaver seconded and upon vote, the motion carried.

The Board briefly recessed, reconvening at 10:17 a.m.

### **C.R.I.D. #20 Update**

Steve Becken said that he spoke with bond counsel about dissolving the CRID and that it required a resolution in regular session, not a public hearing. Additionally, he provided the following options for the Board:

1. The Board could form a CRID by resolution for the railroad crossing and come up with estimated costs. Landowners would be notified, have an election on whether to construct, and be allowed one vote per dollar of assessment.
2. Construct the crossing without the use of a CRID. The County would declare the crossing a public necessity and would fund the project with no cost reimbursement by any of the benefited properties.
3. No build option.

David Sparks said that VIT funds were available for either option 1 or 2 if that was the Board's desire. He recommended Option 2 since Option 1 would probably add costs by completing the bond process.

Commissioners Bowman and Beaver both agreed to dissolve the CRID #20 by resolution.

Commissioner Bowman said he thought Option 1 would be the best because the money could eventually be used once the bonds were paid back and the cost shared by other owners.

Commissioner Beaver said he would recommend cashing it and supporting the school and being done with it.

Chairman Benitz said he also concurred with Option 2, but wanted to coordinate with the school district and landowner about construction so the road was not being built to no-where. He said he would support setting the money aside for construction of the crossing but wanted to coordinate with the other entities regarding funding.

The Board agreed.

#### **WSU Educator for 4H Youth Development**

Marianne Ophardt introduced the new 4H educator Natalie Kinion and she provided information on the new program.

The Board briefly recessed, reconvening at 10:40 a.m.

#### **Executive Session – Review Performance of a Public Employee**

The Board went into executive session with DPA Sarah Perry and DPA Ryan Brown at 10:40 a.m. for approximately 15 minutes to review the performance of a public employee. The Board came out of executive session at 10:58 a.m. and stated that no action was taken. The Board went back into executive session for another 15 minutes and came out at 11:16 a.m. stating that no action was taken. The Board again went back into executive session for another 10 minutes. The Board came out at 11:25 a.m. and stated that no action was taken but direction was given.

## **Other Business**

### **Superior Court Administrator Position Salary**

David Sparks said he wanted to clarify that on October 31, 2007 the Board approved a grade increase for the Superior Court Administrator from an 18 to a 21 (15% salary increase) based upon internal equity.

### **WSAC Report**

Commissioner Bowman provided a packet of information from WSAC and discussed the fiscal health and economic development, and public health and funding, just to name a few.

### **Joint Meeting**

Adam Fyall gave a tentative date of April 27 in the afternoon to meet with Yakima and Klickitat Counties for the joint meeting.

The Board recessed, reconvening at 1:30 p.m.

### **District Court Judge Interviews**

Chairman Benitz outlined the process and said that each applicant could give a five-minute presentation and then would be asked a series of questions by the Board.

#### **Terry Tanner**

Mr. Tanner said he had 20 years experience as an attorney as a city prosecutor, a deputy prosecutor, and in private practice. He said he had been involved with district court and municipal court, requiring different kinds of decision making, and using his ability in a way that was best for the community and the clients. He said it would be a natural progression to move into the decision-making process and he had received support from both the prosecutor side and the defense attorney side.

Question: Which of the primary duties of a sitting District Court Judge is the most important and why?

Answer: He said the most important duty is sitting as a judge in a criminal case because it directly affected everyone involved, including a victim and was one of the most prevalent parts of the job.

Question: Please describe your most important professional accomplishments and how those accomplishments equip you for the duties of a District Court Judge?

Answer: He said when Judge Swisher ran for the bench and asked him to take over his practice. He said he stepped away from PA's office and was able to take over the existing practice and develop, expand, and provide municipal services for the cities and was able to see how the system worked from many perspectives.

Question: Describe your work ethics and philosophy of being a judge.

Answer: Mr. Tanner said a judge was responsible to each and every one of the people that voted for him and those that did not. He said the commitment to being an elected official goes far beyond regular hours and commitments. He said it was vital to put in the hours and be available during off-hours, as well as using down time. He said he believed it was not a 40-hour job, but whatever the job required.

Question: Do you have any ideas you can bring to the job about efficiencies in the court system?

Answer: Mr. Tanner said there was always an opportunity to look for efficiencies. He said he would look at requiring defense attorneys to meet w/clients prior to a hearing and require PA's to read the files. He said the parties could be encouraged to be prepared and result in less time being spent waiting.

Question: Sometimes inexperienced attorneys appear in District Court. If such an attorney appeared before you in a criminal trial and started to engage in activity that constituted blatant violations of court rules or ethical rules, how would you proceed?

Answer: He said at some point that continued activity would result in a mistrial. He said he would talk to the attorney in private and state the trial would not be able to proceed if the behavior continued. He said it would be a fine line and might result differently for an inexperienced attorney vs. an experienced one.

Question: Do you believe in the saying that judges shouldn't legislate from the bench?

Answer: Mr. Tanner said he was totally opposed to judges legislating. He said the judge has a set of facts that are applied to the law and used to reach a set of conclusions. The law is what it is and he is not the person to change it.

### Katie Butler

Ms. Butler said she got her start as a deputy prosecutor in front of Judge Pratt and wanted to carry on the tradition of excellent and fair justice. She said she served as a pro tem judge since 1994 and a part-time court commissioner and she had heard all the kinds of cases that were heard in district court. She said she believed she was uniquely qualified due to her judicial experience in Benton County District Court, Franklin County, and Pasco Municipal Court and would be ready to start off running. Ms. Butler also discussed her extensive trial court experience and work at a large firm in their civil litigation department, stating she would be a well-rounded effective judge and had lived in the Tri-Cities for 25 years and was active in the community.

Question: Which of the primary duties of a sitting District Court judge is the important duty and why?

Answer: Ms. Butler said the primary duty was to set the tenor, tone, and consistency for the courtroom. She said it was important the courtroom became a place where people knew a judge would make a decision on solid facts based on law, be treated with respect, and the matter was important to the judge.

Question: Please describe your most important professional accomplishments and how those accomplishments equip you for the duties of a District Court Judge?

Answer: She said her most important accomplishments came as a deputy prosecutor on the dependency cases to intervene to protect children. She said she felt like she really made a difference for the well being of these children and that handling those kinds of cases was most satisfying.

Question: Describe your work ethics and philosophy of being a judge.

Answer: Ms. Butler stated she was a hard worker and that her commitment was to the court, the bench, the people in front of you, and Benton County. She said they expect you to work hard, be educated and do the best you can. She said her involvement in the community showed her commitment to hard work and it was important not to compromise justice and make good and fair decisions in a cost effective fashion.

Question: Do you believe in the saying that judges shouldn't legislate from the bench?

Answer: Ms. Butler stated that judges were bound to follow the law as given and it was not their position to create the law.

Question: What action, if any, would you take if you witnessed a fellow judge acting inappropriately or unlawfully?

Answer: She said there was an obligation to report that to the judicial ethics commission, but she would try and talk with the person directly to resolve the matter. However, she did not believe it was something you could leave unaddressed.

Question: Do you have any ideas you can bring to the job about efficiencies in the court system?

Answer: She said she had some ideas to explore like not putting probation on certain kinds of cases, combining some dockets, restricting issuance of bench warrants in some cases, use of work crews, and overlapping of staff for more accessibility during lunch hours.

### Joe Burrowes

Mr. Burrowes said it was difficult to sell himself because he was used to working hard and being recognized for his work. He said he had all the qualities and uniqueness to be a good district court judge. He indicated that since being appointed as a court commissioner he has honed his skills as a legal scholar and the experience has given him to the opportunity to take the next step. He said he was 100% dedicated to his job and he felt the officers appreciate his enthusiasm to assist them and he was ready to take the next step.

Question: Which of the primary duties of a sitting District Court judge is the important duty and why?

Answer: He said to fulfill the requirements of District Court, hold the integrity of the job, and "walk the talk".

Question: Please describe your most important professional accomplishments and how those accomplishments equip you for the duties of a District Court Judge?

Answer: Mr. Burrowes said that graduating from law school at 36 years old, being appointed by the judges as a district court commissioner, and being acknowledged for his legal analysis and hard work and dedication.

Question: Describe your work ethics and philosophy of being a judge.

Answer: Mr. Burrowes described his work ethic and philosophy as “second to none”. He said he was ready to work Monday through Friday and off hours if available by phone. He said he was generally the first to work and the last to leave.

Question: Do you believe in the saying that judges shouldn’t legislate from the bench?

Answer: Mr. Burrowes said he agreed with that and it was the judge’s job to follow the law, interpret the law, and enforce it.

Question: Sometimes inexperienced attorneys appear in District Court. If such an attorney appeared before you in a criminal trial and started to engage in activity that constituted blatant violations of court rules or ethical rules, how would you proceed?

Answer: Mr. Burrowes stated that happened in a trial and he stopped the trial, informed the attorney of his ethical responsibility, informed him he would not tolerate the behavior if it proceeded and would call the Bar himself.

Question: Do you have any ideas you can bring to the job about efficiencies in the court system?

Answer: He said he was not in agreement that we should continue to do it the same way just because we have always done it that way. He said the Courts should utilize technology and modernize, try to manage the compliance issue dockets, and allow citizens access to courthouse during different hours.

The Board briefly recessed, reconvening at 2:40 p.m.

**MOTION**: Commissioner Beaver moved to appoint Katharine Butler to the Nonpartisan Elective Office Vacancy of Benton County District Court Judge. The motion died for lack of a second.

**MOTION**: Commissioner Bowman moved to appoint Joseph Burrowes to the Nonpartisan Elective Office Vacancy of Benton County District Court Judge. The motion died for lack of a second.

**MOTION**: Commissioner Bowman moved to appoint Joseph Burrowes to the Nonpartisan Elective Office Vacancy of Benton County District Court Judge. Commissioner Beaver seconded.

#### Discussion

Chairman Benitz said he believed that all three candidates were good choices, however, was in favor of Terry Tanner.

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

**MOTION**: Commissioner Beaver moved to appoint Terry Tanner to the Nonpartisan Elective Office Vacancy of Benton County District Court Judge. Chairman Benitz seconded. Upon vote, the motion carried with Commissioner Bowman opposing.



## **Vouchers**

Check Date: 03/16/2009  
Warrant #: 222675-222913  
Total all funds: \$109,261.76

Check Date: 3/16/2009  
Taxes #: 10109034-10109035  
Total all funds: \$35,324.27

Check Date: 3/20/2009  
Warrant #: 920582-920859  
Total all funds: \$862,975.00

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

## **Resolutions**

- 9.185 Line Item Transfer, Fund No. 0106-101, Dept. 000
- 9.186 Lease Renewal w/Fred Meyer Stores, Inc.
- 9.187 Line Item Transfer, Fund No. 0305-101, Dept. 000
- 9.188 Contract w/Barrich, Inc., dba MRP Services for Grease Pumping & Cleaning
- 9.189 Lease Agreement w/Rada Rabbits & Cavies 4-H Club
- 9.190 Approval of Payment to Defense Attorney, J Lilly for Professional Services Rendered
- 9.191 Approval of Payment to Defense Attorney, G Ochoa for Professional Services Rendered
- 9.192 Indigent Superior Court Service Agreement w/T Meehan-Corsi
- 9.193 Service Agreement w/Administrative Office of Courts for Judicial Information System
- 9.194 Service Contract w/Fowler General Construction, Inc. for Restroom Addition at Horn Rapids
- 9.195 Approval of Project Amendment for Public Works Trust Fund Loan Agreement #PW-04-691-003
- 9.196 Signature Authorization Form w/Washington State Military Department
- 9.197 Approval of Interlocal Agreement w/City of Richland for Bituminous Surface Treatment
- 9.198 Authorization to Purchase Traffic Sign Materials
- 9.199 Approval of Supply Contract w/R.E. Powell Distributing for Refined Petroleum Products
- 9.200 Authorization to Purchase Taser & Taser Accessories from WA State Contract No. 01003
- 9.201 Authorization to Purchase Materials, Equipment & Supplies w/Crown Paper & Janitorial, Inc.
- 9.202 Authorization to Purchase Paper Products w/Columbia Basin Paper & Supply

- 9.203 Approval for Disbursements from the Historical Preservation Fund
- 9.204 Authorization to Purchase from the Trial Court Improvement Fund in the amount of \$53,876.00
- 9.205 Line Item Transfer - \$53,133, Trial Court Improvement Fund
- 9.206 Appointment of Terry M. Tanner to the Nonpartisan Elective Office Vacancy of Benton County District Court Judge

There being no further business before the Board, the meeting adjourned at approximately 3:00 p.m.

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Clerk of the Board

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Chairman