

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
September 28, 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 Kelty; Adam Fyall, Community Development Coordinator; Finance Manager Linda Ivey; Personnel Manager Melina Wenner; Facilities Manager Roy Rogers; Mike Shuttleworth, Susan Walker, and Valerie Smith, Planning; Steve Becken and Malcolm Bowie, Public Works; DPA Ryan Brown; Carrie Huie-Pascua, Human Services; DPA Jonathan Young.

Approval of Minutes

The Minutes of September 21, 2009 were approved.

Consent Agenda

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

Auditor

- a. Change of Precinct Boundaries Within Benton County

Human Services

- b. Travel Expense Reimbursements

Juvenile

- c. Truancy Contract for Kiona-Benton School District
- d. Program Contract Amendment w/St of WA, DSHS, Juvenile Rehabilitation Administration

Office of Public Defense

- e. District Court Defense Contract Amendment w/R Swinburnson
- f. District Court Defense Contract Amendment w/C Harkins
- g. District Court Defense Contract Amendment w/D Hickman
- h. District Court Defense Contract Amendment w/M Poland
- i. District Court Defense Contract Amendment w/B Anderson
- j. District Court Defense Contract Amendment w/J Celski

- k. District Court Defense Contract Amendment w/P Younesi
- l. Professional Services Agreement w/S Ajax
- m. Service Agreement Amendment for Procurement of Haworth Office Furniture; Rescinding Resolution 09-471

Personnel

- n. Personal Service Contract w/Western States Insurance Agency, Inc.
- o. Personal Service Contract w/JMF & Associates

Public Works

- p. Interlocal Agreement w/City of Prosser for Sharing Equipment
- q. Interlocal Agreement w/City of Benton City for Use of Solid Waste Brush Bandit
- r. Award of Contract for Johnson, Hinzerling & OIEH Intersection to A & B Asphalt, Inc.
- s. Authorization to Purchase Tire Chain Parts
- t. Authorization to Purchase Complete Repainting of Equipment No. 489
- u. Traffic Control on Steele Road
- v. Plan Approval for Wiser Parkway at BNSF Railroad

Sheriff

- w. Surplus and Transfer of Two Sheriff Vehicles to BF Juvenile Justice Center

Superior Court

- x. Interagency Agreement w/State of Washington Administrative Office of the Courts

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

Public Hearing - Comprehensive Plan Amendments

CPA 09-01

Ms. Walker stated that CPA 09-01 was a proposal to change the land use designation from Heavy Industrial to Rural Lands Five to render the land use designation for the parcel consistent with the actual use of the property and with those adjacent. The Planning Commission and the Planning staff recommended approval of the amendment.

The following exhibit was entered into the record:

Exhibit D: Fax from AgriNorthwest dated September 25, 2009

Proponents

Nancy Pace, applicant, said they wanted to change the designation in case there was ever a fire. As it was currently zoned, they would not be able to rebuild their home.

Opponents

Tom Mackay, general manager for AgriNorthwest, said the property was surrounded by industrial and changing the designation would leave it open for unhappy neighbors in the future. He said it would be a mistake to change designations in that area.

Commissioner Bowman asked if the buffer between the Industrial and RL-5 would be large enough. Mr. Shuttleworth said most of the industries run 24 hours a day and seem to be compatible with RL-5 next to Industrial.

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

MOTION: Commissioner Beaver moved to approve CPA 09-01 and adopt the Planning Commission's findings of fact. Commissioner Bowman seconded.

Discussion

Commissioner Bowman said the designation of Heavy Industrial put the house in peril if there was ever a fire.

Upon vote, the motion carried.

CPA 09-02

Ms. Walker said the City of Richland submitted a proposal to include 178.36 acres of land into the Urban Growth Boundary (UGA). The Planning Commission forwarded the proposed amendment to the Board without a recommendation. Based upon the review and analysis of the City of Richland's application submittal, the Planning staff found that the City did not need additional lands to accommodate population growth and has sufficient land within its existing urban growth area boundary to accommodate 20 years of projected growth and beyond and recommended denial of the amendment.

Proponents

Rick Simon, Development Services for City of Richland, said under county zoning it was designated as light commercial and industrial and the question was if the city could extend water and sewer to more fully accommodate that area. He said with the public school being built, it was an area that should be served by city services. In response to a question by Commissioner Beaver, he said they currently have an agreement with the City of Kennewick to share services.

John Ziobro, attorney, discussed the land capacity and whether they could justify adding land. He requested the Board take into consideration OFM projections and patterns of development. He said this property was already developed and was in close proximity to service. He suggested there were two areas that were eating up Richland's capacity: the Hanford area artificially inflated the UGA and should not be considered and the Dallas Road area. He said that Dallas Road was not growing and these were large areas of inventory where growth was not likely to occur. He requested the Board take these factors into consideration.

Curtis Wiser, Kennewick said there were two on-off ramps on I-82 that had potential for development: Badger and Dallas Road and Dallas Road was not developing. He said that Richland had brought the utilities down and all they had to do was get it across the highway. He

said they were asking for help to make this the best they could by providing city water and sewer and they could not develop the commercial and those kinds of things without the city services.

Lauren Combs, said he represented the owners of the 1600 acres in the City of Richland's UGA on Dallas Road. He said that negotiations were going forward and they hoped to start turning dirt in 2011. He said he was in favor of this amendment because if the Board approved it, he wanted the Board to expand the UGA on the south side of the freeway at Dallas Road and be fair to all.

Judy Homewood, commercial realtor with Coldwell Banker, said she had been working with the Wisner family about prospective buyers and they wanted city sewer and city water. She said it would make a big difference in the speed of development and quality of development and a septic would not work for many prospective buyers. She stated it could bring a lot of employment because everyone's question was when the utilities would be in.

Opponents

Vince Panesko, Richland, said he opposed the expansion because it did not meet the requirements of RCW 36.78.10 for expanding UGA's and made it subject to challenge before the Growth Board. He said there was no shortage of land in the current UGA. He said the Board previously stated it wanted to protect the rural areas south of the freeway and if this was approved, they were making a change and some would be receiving special treatment. He said that no one else had one-acre lots and no one else had urban utilities.

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

Commissioner Bowman said it would seem the GMA was there to protect the agriculture and this area was designated as agriculture and light industrial. He wondered why they went to the trouble to make it industrial but limited the ability to build industrial.

Commissioner Beaver said he didn't see a lot of farms in that subdivision but there were a lot of houses. He indicated the City of Richland and City of Kennewick were right at that interchange, everything was in place, and it was happening right now. He said there was a problem when development started occurring and they didn't amend the Comprehensive Plan.

Susan Walker said the Comprehensive Plan was supposed to drive the planning but there were things happening where the planning wasn't intended. She said the GMA requires the planning first (the cities have to do their own planning). Ms. Walker suggested the County look at some holding areas for urban use.

MOTION: Commissioner Bowman moved to approve CPA 09-02 and develop its own findings of fact. Commissioner Beaver seconded and upon vote, the motion carried with Chairman Benitz opposing.

CPA 09-03

The following exhibits were entered into the record:

- Exhibit F: Outline from Spink Engineering dated September 25, 2009
Exhibit G: Transmittal listing objections to Planning Commission recommendation from Spink Engineering dated September 25, 2009
Exhibit H: Letter from Kerr Law Group dated September 25, 2009

A proposal by the City of Benton City to include two areas (A-304 acres) and (B-195 acres) into its Urban Growth Area. Both areas proposed for inclusion could not be characterized as having urban growth, nor were they adjacent to territory already characterized by urban growth. The Planning Commission and Planning Staff recommended denial of CPA 09-03.

Proponents

Leland Kerr, attorney for City of Benton City, said this was their chance to jump out ahead instead of lag behind. He stated that Area A was immediately adjacent to Kiona (characterized by urban development) and there were utilities at the edge of Area A. He said that Area B should either be contained or be allowed to have area providers service it. He indicated the Legislature was stating they could include medical, industrial and other densities along with residential densities in the total density.

Bob Spink, Spink Engineering, said they were really asking for 35 acres less than what was shown. He indicated this area was urban and they were ready to serve the area.

Mayor Carnahan said they had tried to get into the urban growth area north of Benton City (Area A); the property owners requested to be in the UGA so they could annex into the city. He said if development continued, there would not be any UGA left.

Randy Rutledge, Economic Development Coordinator, said the Consultant Study indicated the key areas of growth were in that intersection. He said there were a number of folks that wanted Area A and it was a prime site for housing a hotel and agritourism (right off the freeway and could be a prime area for Red Mountain).

Tom Harrison, owner of subdivision in Area B, said it was cost prohibitive to put in septic with all the restrictions and was in favor of the application.

Heather Duncan, Benton City EDC, said she was in favor of the proposal. She indicated that Area B already expressed urban character and the population was already happening there. Area A was ideally suited for location of a hotel and tourism designation. She said that inclusion into the UGA was vital for Benton City to reach its maximum potential and this would bring this area closer to other areas in the County.

Opponents

Vince Panesko said he was opposed due to the growth management compliance and interference with the AVA this proposal suggested. He said he owned parts of an interchange on I-5 and there were hot interchanges and not so hot interchanges. He talked about an interchange that had two restaurants and three gas stations (now one struggling restaurant and one closed station) and

there were hundreds of thousands of cars that pass this interchange every day. He said there was a fraction of the traffic on I-82 as there was on I-5 and the development here on these interchanges was going to happen very slowly. He said it would be difficult to find investors and banks that would provide financing. He stated the Growth Management Act was a law and these expansions didn't meet the requirements. He said the County should either change the Comp. Plan or disapprove the request. He further noted a statement in the AVA site plan that said the vision was to preserve the rural area of the AVA that visitors find appealing.

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

Commissioner Bowman said it sounded like they needed a Comp. Plan change. He said that Benton City was a rural community, but their vision was to urbanize and he didn't know if it was Area A or Area B, but he couldn't say no.

Commissioner Beaver suggested the County have a planning workshop. He said the County needed encourage the communities in Benton County and support them to develop and move forward. He said the County needed the economic development and if some form of growth did not occur then it would be a downward spiral.

MOTION: Commissioner Bowman moved to adopt the proposed CPA 09-03 as modified and develop findings and conclusions. Commissioner Beaver seconded.

Discussion

Chairman Benitz said he believed that Area A was still agricultural land.

Upon vote, the motion carried with Chairman Benitz opposing.

The Board briefly recessed, reconvening at 10:51 a.m.

CPA 09-04

A proposal by Harold and Susan Bond to change the land use designation from Rural Lands 5 to General Commercial on a 6.37-acre parcel. The Planning Commission and Planning Staff recommended denial of the application.

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

MOTION: Commissioner Beaver moved to deny CPA 09-04. Commissioner Bowman seconded and upon vote, the motion carried unanimously.

CPA 09-05

A proposal by Kennewick General Hospital and Chuck Barnes to change the land use designation from Heavy Industrial to Rural Lands five. The Planning Commission recommended approval.

Proponents

James Wade, Everstar Realty, thanked the Planning Department for its help and spoke in favor.

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

MOTION: Commissioner Bowman moved to approve CPA 09-05 and adopt the Planning Commission's findings of fact. Commissioner Beaver seconded and upon vote, the motion carried.

CPA 09-06

Ms. Walker said the proposed amendments were "housekeeping" edits to update text. The Planning Commission recommended approval.

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

MOTION: Commissioner Beaver moved to approve CPA 09-06 and adopt the Planning Commission's findings of fact. Commissioner Bowman seconded and upon vote, the motion carried.

The Public Hearings were continued to October 26, 2009 at 9:20 a.m. to approve the resolutions and findings of fact.

Food Sense Program

Marianne Ophardt and Lizann Powers-Hammond updated the Board on the Food Sense Program and said they were hiring two new educators with matched USDA funds. The program was designed to educate the low-income population on nutrition.

Public Hearing – Supplemental Appropriations

Linda Ivey presented the following supplemental requests for public hearing:

2009 Current Expense, Sheriff Patrol, Byrne/Justice Assistance Grant, \$38,095

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

MOTION: Commissioner Bowman moved to approve the supplemental appropriation to the 2009 Current Expense, Sheriff's Patrol budget, Dept. 121 in the amount of \$38,095. Commissioner Beaver seconded and upon vote, the motion carried.

2009 Current Expense, Superior Court, professional services, \$50,000

Pat Austin via/videoconference, spoke in favor.

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

MOTION: Commissioner Beaver moved to approve the supplemental appropriation to the 2009 Current Expense, Superior Court budget, Dept. 123 in the amount of \$50,000. Commissioner Bowman seconded and upon vote, the motion carried.

2009 Current Expense, Coroner Office, autopsy costs, \$30,000

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, Coroner Office budget, Dept. 109 in the amount of \$30,000. Commissioner Bowman seconded and upon vote, the motion carried.

2009 Human Services Fund, Dept. 113, case management services position, \$12,000

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

MOTION: Commissioner Bowman moved to approve the supplemental appropriation to the 2009 Human Services Fund, Dept. 113 in the amount of \$12,000. Commissioner Beaver seconded and upon vote, the motion carried.

2009 Juvenile Center Fund, Dept. 171, Juvenile Drug Court funding, \$35,361

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

MOTION: Commissioner Beaver moved to approve the supplemental appropriation to the 2009 Juvenile Center Fund, Dept. 171 in the amount of \$35,361. Commissioner Bowman seconded and upon vote, the motion carried.

2009 Noxious Weed Control Fund, professional services, \$19,125

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

MOTION: Commissioner Bowman moved to approve the supplemental appropriation to the 2009 Noxious Weed Control Fund in the amount of \$19,125. Commissioner Beaver seconded and upon vote, the motion carried.

2009 Homeless Housing and Assistance Fund, housing program, \$150,000

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

MOTION: Commissioner Beaver moved to approve the supplemental appropriation to the 2009 Homeless Housing and Assistance Fund in the amount of \$150,000. Commissioner Bowman seconded and upon vote, the motion carried.

Grant Agreement w/CTED

Jonathan Young, DPA, discussed his legal concerns pertaining to the grant agreement. He recommended the Board approve the agreement, conditioned upon striking the language requiring Human Services to provide insurance coverage excluded from Benton County's standard insurance policy.

Carrie Huie-Pascua recommended the Board move forward with the conditions recommended by Mr. Young.

MOTION: Commissioner Bowman moved to approve the execution of a contract for residential substance abuse treatment services between the Department of Community, Trade and Economic Development, now called Department of Commerce, and Human Services, conditioned upon the agreement to strike the language as recommended by DPA Jonathan Young. Commissioner Beaver seconded and upon vote, the motion carried.

Executive Session – Pending Litigation

The Board went into executive session with DPA Ryan Brown at 11:17 a.m. for approximately 10 minutes to discuss pending litigation. Also present were David Sparks, Cami McKenzie, Susan Walker, Mike Shuttleworth, Melina Wenner, and Loretta Smith Kelty. The Board came out at 11:25 a.m. Mr. Brown stated the Board was going back into executive session for another 10 minutes. The Board came out of executive session at 11:32 a.m. Mr. Brown announced no action was taken.

Vouchers

Check Date: 9/18/2009
Warrant #: 933338-933567
Total all funds: \$1,062,205.38

Check Date: 9/25/2009
Warrant #: 934062-934320
Taxes #: 01010909
Total all funds: \$769,930.92

Check Date: 9/25/2009
Warrant #: 934321-934589
Total all funds: \$6,533.96

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

Resolutions

9.634 Change of Precinct Boundaries Within Benton County
9.635 Truancy Contract for Kiona-Benton School District

- 9.636 Program Contract Amendment w/St of WA, DSHS, Juvenile Rehabilitation Administration
- 9.637 District Court Defense Contract Amendment w/R Swinburnson
- 9.638 District Court Defense Contract Amendment w/C Harkins
- 9.639 District Court Defense Contract Amendment w/D Hickman
- 9.640 District Court Defense Contract Amendment w/M Poland
- 9.641 District Court Defense Contract Amendment w/B Anderson
- 9.642 District Court Defense Contract Amendment w/J Celski
- 9.643 District Court Defense Contract Amendment w/P Younesi
- 9.644 Professional Services Agreement w/S Ajax
- 9.645 Service Agreement Amendment for Procurement of Haworth Office Furniture; Rescinding Resolution 09-471
- 9.646 Personal Service Contract w/Western States Insurance Agency, Inc.
- 9.647 Personal Service Contract w/JMF & Associates
- 9.648 Interlocal Agreement w/City of Prosser for Sharing Equipment
- 9.649 Interlocal Agreement w/City of Benton City for Use of Solid Waste Brush Bandit
- 9.650 Award of Contract for Johnson, Hinzerling & OIEH Intersection to A & B Asphalt, Inc.
- 9.651 Authorization to Purchase Tire Chain Parts
- 9.652 Authorization to Purchase Complete Repainting of Equipment No. 489
- 9.653 Traffic Control on Steele Road
- 9.654 Plan Approval for Wiser Parkway at BNSF Railroad
- 9.655 Surplus and Transfer of Two Sheriff Vehicles to BF Juvenile Justice Center
- 9.656 Interagency Agreement w/State of Washington Administrative Office of the Courts
- 9.657 Supplemental Appropriation – Current Expense, Sheriff Patrol, \$38,095
- 9.658 Supplemental Appropriation – Current Expense, Superior Court, \$50,000
- 9.659 Supplemental Appropriation – Current Expense, Coroner, \$30,000
- 9.660 Supplemental Appropriation – Human Services, \$12,000
- 9.661 Supplemental Appropriation – Juvenile Center, \$35,361
- 9.662 Supplemental Appropriation – Noxious Weed Control, \$19,125
- 9.663 Supplemental Appropriation – Homeless Housing & Assistance, \$150,000
- 9.664 Contract for Residential Substance Abuse Between Human Services and Department of Commerce

There being no further business before the Board, the meeting adjourned at approximately 11:32 a.m.

Clerk of the Board

Chairman