

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
Benton County Courthouse, Prosser, WA
Tuesday, June 8, 2021, 9:00 a.m.

Meeting provided in-person, by Video Live-Broadcast and Telephonically

Present: Chairman Jerome Delvin
Commissioner Shon Small
Commissioner Will McKay
County Administrator Jerrod MacPherson
Clerk of the Board Cami McKenzie

Benton County Employees Present During All or a Portion of the Meeting: Deputy County Administrator Matt Rasmussen; Robert Heard, IT Manager; Lexi Wingfield, HR Manager; Greg Wendt, Community Development Director; Brian Malley, Associate Planner; Robert Blain, Operations & Capital Programs; Kirsten Yniguez, Deputy Treasurer; Tiffany Deaton, Superior Court Administrator; Adam Fyall, Sustainable Development Manager; County Engineer Doug D'Hondt; Clerk Josie Delvin; PA Reid Hay; DPA Ryan Brown; DPA Eric Andrews (via/WebEx); Facilities Manager Jeff Jones.

Pledge of Allegiance

The Board recited the Pledge of Allegiance.

Approval of Minutes

The Minutes of May 25, 2021 were approved.

Consent Agenda

MOTION: Commissioner Small moved to approve the consent agenda items “a” through “m”. Commissioner McKay seconded and upon vote, the Board approved the following:

Auditor

- a. Surplus & Disposition of Personal Property

Building

- b. Line Item Transfer, Fund Number 0149-101, Dept. 000

Commissioners

- c. Contract w/Prosser Record Bulletin for Official County Newspaper
- d. Thank You Letters to Legislators for Three Rivers Behavioral Health Recovery Center Funding
- e. Ratifying Engagement Letter for D.A. Davidson to Serve as Bond Underwriter

District Court

- f. Contract w/Bertha Ramon-Arteaga for Interpreter Services

Human Resources

- g. Subscriber Agreement w/Public Safety Testing for Entry Level Corrections Testing

Information Technology

- h. Coding Corrections
- i. Purchase of a 1-Year Subscription for WebEx Archiving From CompuNet, Inc.

Juvenile

- j. Agreement w/Pasco School District for Probation Counselor @ Pasco High School
- k. Agreement w/Pasco School District for Probation Counselor @ Chiawana High School

Office of Public Defense

- l. District & Superior Public Defense Investigation Contract w/Shawna Morris

Purchasing

- m. Public Works – Purchase of Public Safety Communication Equipment & Services From Racom Corp.

Public Comment

None.

Public Hearings

Comprehensive Plan Amendment – CPA 2021-001

Greg Wendt & Brian Malley presented the Comprehensive Plan Amendment CPA 2021-001 for a change in land use designation on five contiguous parcels. The proposed Comprehensive Plan land use designation of Rural Commercial, and anticipated zone change to Commercial, will bring existing uses into conformance with the proposed zoning district, which includes the Longbranch Bar and Grill and Finley Self Storage. The Planning Commission held a public hearing on May 11, 2021 to consider the request and, after taking testimony and discussion among the Commission members, voted to forward a recommendation for approval of the proposed amendments subject to sixteen (16) findings of fact.

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

MOTION: Commissioner Small moved to adopt the Planning Commission’s Findings and Conclusions as its own and approve CPA 2021-001 for a change in the Land Use Designation on five (5) contiguous parcels located on the north side of SR 397, described as follows: Parcel numbers 1-2680-101-0196-001, 1-2680-101-0196-002, 1-2680- 100-0037-000, 1-2680-101-0044-001 and 1-2680-101-0044-002, in the Northeast Quarter of Section 26, Township 8 North., Range 30 East. W.M, from Rural Remote to Rural Commercial as reflected in PCM 1.2 and 1.3 and approve the update to Appendix A, Map Folio-Figure 5, Land Use Designation Map to reflect said change. Commissioner McKay seconded and upon vote, the motion carried.

Comprehensive Plan Amendment – CPA 2021-003

Greg Wendt & Brian Malley presented Comprehensive Plan Amendment CPA 2021-003 to remove the reference to farm worker housing within four sections of the Benton County Comprehensive Plan. Additionally, it included some housekeeping changes. The Planning Commission held a public hearing and voted to forward a recommendation for approval subject to nine (9) findings of fact.

Public Testimony

Brian Trimble, Richland, WA, said that agricultural business employers were vital to the area's economic health and they needed a place to house their employees. He supported the change and saw it as an equality issue so that agricultural employees could reside anywhere that residences were allowed. It was not special treatment, merely equal treatment.

Michael Hillman, Kennewick, WA, said he was an immigrant from Canada and wanted to reflect as an immigrant on how he was treated versus migrant workers. He said he was treated fairly and never told where he should live. He said the migrant workers were following the law and proper protocol and the amendment made sense so they could be treated equally.

Abraham Larios, Kennewick, agreed with the comments and said they relied greatly on farm workers, and housing had been an issue and would continue to be and he wanted an opportunity to be treated equal.

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

MOTION: Commissioner Small moved to adopt the Planning Commission's Findings and Conclusions as its own and approve CPA 2021-003 for an amendment to four (4) sections of the Benton County Comprehensive Plan as reflected in PCM 1.3 and approve a correction to Appendix A, Map Folio-Figure 5, Land Use Designation Map (PCM 1.7) for six (6) contiguous parcels from Rural Remote to Rural Industrial as reflected in BCCM 1.4 and 1.5. Commissioner McKay seconded and upon vote, the motion carried.

Comprehensive Plan Amendment – CPA 2021-004

Greg Wendt & Brian Malley presented the Application by 5D Development at Cottonwood I, LLC for a change in land use designation on two (2) contiguous parcels, located on the north side of E. Wisner Parkway and south of Interstate I-82, from Rural Industrial to Rural Commercial (PCM 1.10 & 1.11). The Planning Commission, after taking testimony and discussion among the Commission members, voted to forward a recommendation for approval of the proposed amendments subject to fourteen (14) findings of fact.

Public Testimony

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

MOTION: Commissioner Small moved to adopt the Planning Commission’s Findings and Conclusions as their own and approve CPA 2021-004 for a change in the Land Use Designation on two contiguous parcels (Lots 1 and 2 of Short Plat 3669) from Rural Industrial to Rural Commercial as reflected in PCM 1.3 and approve the update to Appendix A, Map Folio-Figure 5, Land Use Designation Map (PCM 1.6). Commissioner McKay seconded and upon vote, the motion carried.

Scheduled Business

PocketiNet Communications Broadband Presentation

Todd Brandenburg briefly discussed the following:

- PocketiNet had been serving this region for over 20 years
- Need for broadband in the County
- Current Broadband Availability
- Pandemic Effects on Broadband
 - 51% in total broadband traffic
- Broadband Technologies Explained
- American Rescue Act – Broadband
- Proposal – recommendation to take some of these funds from the American Rescue Act to use for broadband and build some fiber infrastructure; then the companies could come back and lease some of that fiber and provide the services to more customers
- They encouraged the County to complete a planning study to determine if it was feasible; not prepared to say the amount, but letting the County know there was an opportunity; the planning effort would be somewhere around \$50,000 to identify areas, which was an established number

Commissioner Small expressed concern about the cost and getting into the fiber business. Commissioner McKay wanted to know if other public entities owned their own fiber and were in partnerships. Mr. Brandenburg said the City of Richland was a utility and owned and leased fiber to providers who sold it.

The Board agreed it could check into whether grants were available through the State office that could be applied for to fund the planning study.

Limited Tax General Obligation Refunding Bond

Kirsten Yniguez, Treasurer’s Office & Jim Nelson, D.A. Davidson (via/WebEx) updated the Board on the proposed refunding bond.

- Overview
 - 2018 – the 2006 Bonds were refinanced with a bank at an interest rate of 3.03%
 - The estimated refinancing net borrowing cost is 1.35%
 - Estimated total net savings (with prepayment penalty) are \$394,569.50
 - Average annual savings \$37,578
 - Industry standard is 5% or greater – lining up well at 8.63%

- Interest Rate Chart
- Estimated Savings – Assume a rating of AA+
- Bond Rating
- Schedule – Estimated bond closing and distribution of funds – July 22, 2021

MOTION: Commissioner McKay moved to approve the Benton County LTGO refunding Bonds 2021 Bond Resolution as prepared by Foster Garvey, P.C. Commissioner Small seconded and upon vote, the motion carried.

Position Request - Court Commissioner Trainee

Tiffany Deaton & Lexi Wingfield presented a Line Item Transfer to pay for a position request (Court Commissioner Trainee). A Court Commissioner was retiring, and Franklin County did not require a line item transfer, however, the cost would still be allocated per the percentage split. There would not be any budget impacts.

MOTION: Commissioner Small moved to approve the Line Item Transfer to create a Court Commissioner Trainee as presented. Commissioner McKay seconded and upon vote, the motion carried.

Disbursement Agreement with West Richland for Rural County Capital Funds

Adam Fyall presented an agreement with the City of West Richland to assist with funding the SR 224/Red Mountain Transportation Improvement Project in the amount of \$1,318,000 for a water project part of a larger overall project.

The rural county capital fund is set to expire in two years, and they were working on extending rural county funding for the future. If it was not extended, the funds would go back to the State.

MOTION: Commissioner Small moved to approve the Disbursement Agreement for use of Rural County Capital Funds to the City of West Richland for the SR 224/Red Mountain Transportation Project. Commissioner McKay seconded and upon vote, the motion carried.

Agreement with Watts & Sons for the Dallas & Arena Road Traffic Safety Improvement Project

Matt Rasmussen & Douglas D'Hondt presented a Memorandum of Agreement with Watts & Sons for the Dallas & Arena Road Traffic Safety Improvement Project. This was a mini-storage facility constructed approximately 11 years ago and construction of a driveway approach under a conditional use permit. However, a final inspection was never requested, so the driveway permit was never finalized.

This new agreement would address the driveway relocation project, as well as other issues surrounding the still incomplete conditional use permit for the mini storage facility. Additionally, it put the total cost to an affordable level, for a new project cost of \$295,000 to be paid from the County Road Fund.

MOTION: Commissioner McKay moved to approve the memorandum of agreement between Watts & Sons as presented. Commissioner Small seconded and upon vote, the motion carried.

Continued Discussion - Contract w/Wave Design for Regional Recovery Center Facility

Matt Rasmussen and Robert Blain presented Task Order #3 with Wave Design Group, LLC, as previously presented at the May 25, 2021 meeting. At that meeting, the Board requested references from the architect. The references were received, and Commissioner McKay and Mr. Blain met with the architect to review them and they were very positive. Additionally, the architect estimated the review of the building would take approximately eight weeks to complete.

MOTION: Commissioner Small moved to approve Task Order #3 for the On-Call Architectural & Engineering Services Contract with Wave Design Group, LLC. Commissioner McKay seconded and upon vote, the motion carried.

Third Restated Interlocal Agreement for BIPIN

Matt Rasmussen said that BIPIN had been working on replacing software for the past two years that housed all the police and jail records. The City of Kennewick was replacing it, but the way it was paid for was fundamentally different and would require a new funding formula, split 50/50 between law enforcement and jail agencies based on cases. The PA's office reviewed the agreement but had separate concerns and therefore, declined to approve as to form.

Commissioner McKay asked what would happen if the Public Safety Tax was not renewed. Mr. Rasmussen said the annual BIPIN cost was paid for through Current Expense, and the Public Safety Tax paid for the software upgrade, so it would not impact the operational agreement.

MOTION: Commissioner Small moved to approve the Third Restated Interlocal Agreement for BIPIN as presented. Commissioner McKay seconded and upon vote, the motion carried.

Other Business

Night Meetings

Commissioner McKay asked if the Board wanted to consider having regular night meetings, perhaps quarterly. Commissioner Small said it was tried in the past, and no one showed up. With the availability of virtual attendance, most people could make the regular board meetings if they needed to.

Chairman Delvin said he would be willing to look at it, perhaps in the Fall.

State v. Blake

Clerk Josie Delvin said the Board needed to have a discussion regarding this case and its effects.

The Board recessed for approximately 5 minutes, reconvening at 10:33 a.m.

Executive Session – Pending Litigation

The Board went into executive session at 10:33 a.m. for 20 minutes with DPA Ryan Brown to discuss pending litigation. Also present were Jerrod MacPherson, Matt Rasmussen, Eric Andrews (via/WebEx), and Cami McKenzie.

The Board came out at 10:50 a.m. No decisions were made in executive session.

MOTION: Commissioner Small moved to approve the Resolution approving an engagement letter, joint defense agreement and the defense of prosecutor Andrew Miller in the case of Reyes et al v. Miller, et al, USDC for the Eastern District of Washington, Cause No. 4:21-CV-05075-SMJ as presented. Commissioner McKay seconded and upon vote, the motion carried.

MOTION: Commissioner Small moved to approve to approve the request for defense of Andy Miller in the case of Derrick Haney vs. Benton County Prosecutor, Cause No. 2120066539. Commissioner McKay seconded and upon vote, the motion carried.

Payroll

Check Date: 06/04/2021

Payroll Checks

Total all funds: \$2,401,252.48

Warrant #: 243182-243217

Direct Deposit #: 162497-163095

Payroll Draw Deductions/Transfers

Total all funds: \$2,325,426.21

Taxes #: 101210601-101210616

ACH #: 1808-1814

Payroll Deduction Warrants

Total all funds: \$126,919.07

Warrant #: 218385-218392

Accounts Payable

Check Date: 05/28/2021

Warrants #: 218047-218187

Total all funds: \$1,127,424.68

EFT's #: 1781-1803

Transfers #: 05282102-05282104

Total all funds: \$186,196.71

Check Date: 06/04/2021

Warrants #: 218212-218384
Total all funds: \$400,728.43

EFT's #: 1804-1807
Transfers #: 06042101-06042102
Total all funds: \$29,411.78

Resolutions

- 2021-436: Surplus & Disposition of Personal Property
- 2021-437: Line Item Transfer, Fund Number 0149-101, Dept. 000
- 2021-438: Contract w/Prosser Record Bulletin for Official County Newspaper
- 2021-439: Ratifying Engagement Letter for D.A. Davidson to Serve as Bond Underwriter
- 2021-440: Contract w/Bertha Ramon-Arteaga for Interpreter Services
- 2021-441: Subscriber Agreement w/Public Safety Testing for Entry Level Corrections Testing
- 2021-442: Coding Corrections – Current Expense Fund and Central Services Fund
- 2021-443: Purchase of a 1-Year Subscription for WebEx Archiving From CompuNet, Inc.
- 2021-444: Agreement w/Pasco School District for Probation Counselor @ Pasco High School
- 2021-445: Agreement w/Pasco School District for Probation Counselor @ Chiawana High School

- 2021-446: District & Superior Public Defense Investigation Contract w/Shawanna Morris
- 2021-447: Public Works – Purchase of Public Safety Communication Equipment & Services From Racom Corp.

- 2021-448: Amendment to the Benton County Comprehensive Plan Change in Land Use Designation From Rural Remote to Rural Commercial File No CPA 2021-001 Applicant Knutzen Engineering

- 2021-449: Amendment to the Benton County Comprehensive Plan Removing Text References to Farm Worker Housing and a Correction of a Mapping Error on the Comprehensive Plan Land Use Designation Map Reflecting a Rural Industrial Designation Upon Six Parcels In the Finley Rural Area File No CPA 2021-003 Applicant Benton County Planning Division

- 2021-450: Amendment to the Benton County Comprehensive Plan Amending the Benton County Comprehensive Plan Land Use Designation On Two Parcels Legally Described as Lots 1 and 2 of Short Plat 3669 From Rural Industrial to Rural Commercial File No CPA 2021-004 Applicant 5d Development at Cottonwood I LLC

- 2021-451: Relating to Contracting Indebtedness Providing for the Issuance and Fixing or Setting Parameters with Respect to Certain Terms and Covenants of Limited Tax General Obligation Refunding Bonds to Prepay and Redeem in Whole the Outstanding Principal of the County's Limited Tax General Obligation Refunding Bond 2018 - Appointing the County's Designated Representative to Approve the Final Terms of the Sale of the Bonds and Providing for Related Matters

- 2021-452: Transfer of Funds Within Current Expense Fund Number 0000101 Department Number 123

- 2021-453: Rural County Capital Fund Disbursement to the City of West Richland for the State Route 224/Red Mountain Transportation Improvement Project
- 2021-454: Memorandum of Agreement Between Watts and Sons LLC And Benton County Regarding The Dallas and Arena Road Traffic Safety Improvement Project
- 2021-455: Executing Task Order #3 for the On Call Architectural & Engineering Services Contract With Wave Design Group LLC
- 2021-456: Approving the Third Restated Interlocal Cooperation Agreement Between the Counties of Benton and Franklin and the Cities of Connell, Kennewick, Pasco, Richland, West Richland And Prosser Regarding the Bi-County Police Information Network - BIPIN
- 2021-457: Approving an Engagement Letter - Joint Defense Agreement and the Defense of Prosecutor Andrew Miller in the Case of Reyes Et Al V. Miller Et Al USDC for the Eastern District Of Washington - Cause No. 4:21-Cv-05075-SMJ

There being no further business before the Board, the meeting adjourned at approximately 10:49 a.m.

Clerk of the Board

Chairman