

## MINUTES

### BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting  
Benton County Courthouse, Prosser, WA  
Tuesday, December 21, 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  
Alt. Clerk of the Board Marilu Flores

**Benton County Employees Present During All or a Portion of the Meeting:** Robert Heard, IT Manager; Karlee HR Assistant Manager; Greg Wendt, Community Development Director; Michelle Cooke, Planning Assistant Manager; Donna Hutchinson, Planning Dept. Office Asst.; Tammy McKeirnan, Human Services Budget & Finance Analyst; Clerk Josie Delvin; Jail Commander Josh Shelton.

#### Pledge of Allegiance

The Board recited the Pledge of Allegiance.

#### Review Agenda

- Administrator MacPherson added discussion on the long term care employee deduction.
- Commissioner McKay added an executive session for reviewing the performance of a public employee.

#### Approval of Minutes

The Minutes of December 14, 2021 were approved.

#### Consent Agenda

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

#### Auditor

- a. Appointments to the Benton County Accessible Community Advisory Committee

#### Commissioners

- b. First Amended Historic Preservation Grant Agreement w/Benton City Revitalization Organization

#### District Court

- c. Agreement w/WA Administrative Office of the Courts for Reimbursement of Interpreter Costs

**Human Resources**

- d. Establishing Insurance Benefits Contribution for Non-Bargaining Employees & Elected Officials
- e. Establishing Insurance Benefits Contribution for Bi-County Non-Bargaining Employees

**Information Technologies**

- f. Three-Year Subscription Renewal for LegalServer From PS Technologies
- g. Annual Subscription for NextRequest Public Records Management From SHI International Corp.

**Office of Public Defense**

- h. Superior & District Court Public Defense Interpreting Services Agreement w/Sylvia Garza
- i. Superior & District Court Public Defense Interpreting Services Agreement w/Bertha Ramon-Arteaga

**Public Works**

- j. Maintenance & Upgrade Fees to Cascade Software Systems for Cost Accounting Software
- k. Approving A Public Hearing for the Amendment of the 2022-2027 Six-Year Road Program

**Purchasing**

- l. Contract w/FastSigns 280501 for Installing Window Film @ The Administration Building
- m. 2<sup>nd</sup> Amended Contract w/Wave Design Group for Redesign of the Justice Center Front Entrance
- n. Contract w/On Scene Medical Services for Pre-Hire Physicals & Drug/Alcohol Testing
- o. Consultant Agreement for On-Call Surveying Services w/HLA Engineering & Land Surveying
- p. Purchase of Thermoplastic Markings From Traffic Safety Supply for Public Works
- q. First Amended Contract w/Public Safety Psychological Services for Evaluations in the Sheriff's Office
- r. Interlocal Agreement w/City of West Richland for General Equipment and/or Services
- s. First Amendment to Contract w/Continental Door Company for Repairs on Garage Doors
- t. Moorage Agreement w/Port of Kennewick & Sheriff's Office to a Maintain Boat Slip @ Clover Island
- u. Grant Award & Contract w/WA State Health Care Authority for Opioid Treatment Network @ the Jail

**Superior Court**

- v. Agreement w/WA State Administrative Office of the Courts for Reimbursement of Interpreter Services

**Public Comment**

None.

**Public Hearings**

**Short Plat Vacation; SPV 2021-005**

Greg Wendt & Michelle Cooke presented the Short Plat Vacation; SPV 2021-005 for the creation of two residential lots from Lot 1 of Short Plat 1746 recorded under Auditors File Number 1991-01241. With the creation of the two lots, a 20-foot ingress-egress and utility easement was established on the southern 300 feet of the west 10 feet of Lot 1 and the east 10 feet of Lot 2 of Short Plat 2831. The parcels are located approximately 930 feet west at the end of Harrington Road in the West Richland area of unincorporated Benton County. The applicant is requesting the vacation of the 20-foot ingress-egress and utility easement that is located on the southern 300 feet of the west 10 feet of Lot 1 of Short Plat 2831 and the southern 300 feet of the east 10 feet of Lot 2 of Short Plat 2831. Ms. Cooke indicated that the Planning Department was recommending approval.

**Discussion:** Commissioner McKay requested the exact location.

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

**MOTION:** Commissioner Small moved to approve SPV 2021-005 for the vacation of a 20-foot ingress-egress and utility easement located on the southern 300 feet of the west 10 feet of Lot 1 and the east 10 feet of Lot 2 of Short Plat 2831. Commissioner McKay seconded and upon vote, the motion carried.

Ordinance Amendment; OA 2021-004

Greg Wendt & Michelle Cooke presented Ordinance Amendment; OA 2021-004, an amendment relating to Benton County Code Title 11 zoning, amending the sections relating to uses requiring a conditional use permit; amending the sections relating to allowable uses for wind turbines, solar power generator facility; major, and facilities for power generation, other than nuclear fueled, wind or solar fueled. Additionally, it included some housekeeping changes. The Planning Commission held a public hearing on Nov 30, 2021, to consider the request and voted to forward a recommendation for approval subject to nine (9) findings of fact.

Ms. Cooke indicated that the application included changes to Rural Lands Use 20, the Growth Management Act, Light Industrial District and Heavy Industrial District to be more consistent with State and County land use regulations including the Growth Management Plan and Comprehensive Plan.

Mr. Wendt gave an overview and explained why potential changes are being discussed. He provided the Board a PowerPoint explaining in more detail the following:

- Definitions of:
  - Wind Turbine
  - Wind Turbine Farms
  - Solar Power Generator Facility, Minor
  - Solar Power Generator Facility, Major
- Allowed Uses for:
  - Wind Turbines – no more than one wind turbine per parcel
  - Zoning Districts – proposal to add wind turbine to the light industrial and heavy industrial zoning districts
- Accessory Uses
  - Solar Power Generator Facility, Minor – use of solar panels
  - Zoning District – no changes proposed
- Conditional Uses
  - Solar Power Generator Facility, Major – use of solar panels
  - Zoning Districts: proposal is to remove from GMA AG and RL 20 Zoning Districts
- Conditional Uses
  - Wind Turbine Farms – 2 or more wind turbines on one parcel
  - Zoning Districts: proposal is to remove wind turbine farms from GMA AG & RL 20 Zoning Districts; and add wind turbine farms to light industrial & heavy industrial zoning districts
- Laws & Regulations

- Growth Management Act – protect agricultural lands & discourage incompatible uses
- County Comprehensive Plan – protect these areas from encroachment of incompatible uses
- County’s Growth Management Act Agricultural Zoning District – protect agricultural lands of long-term commercial significance
- The allowed, accessory, and conditional use options in the zoning ordinance are to be consistent with the GMA, the Comprehensive Plan and the County’s zoning requirements
- By removing the Conditional Use Permit option for commercial solar power & wind farms in GMA AG and Rural Lands 20 Zoning Districts:
  - County would be consistent with the GMA & Benton County Comprehensive Plan
  - GMA AG Zoning District would:
    - protect long-term commercially agricultural lands
    - limit incompatible & non-agricultural uses
    - conserve critical areas & habitat
    - protect visual resources
    - protect rural character
  - Rural Lands 20 Zoning District would:
    - Protect open space

Ms. Cooke entered additional exhibits (BCCH 1.1 through 1.21) into the record, indicated that all public notice requirements were sent out and indicated that it was the recommendation of the Benton County Planning Department that casefile application OA 2021-004 be approved with the suggested nine (9) Findings of Fact.

Commissioner McKay indicated that he did not have any further questions. Commissioner Small clarified that the County could always be superseded by the State. Mr. Wendt confirmed.

### Public Testimony

Aimie Berg Pickett (webex), no address, **opposed**. Ms. Berg indicated she was a renewable energy developer and consultant and discussed dual uses which could be considered. She indicated that it would be much better to work locally than through the State mainly due to costs and timelines. She said it would be unfortunate to be forced to go through the State. Ms. Berg further stated that there were benefits using solar energy and there were benefits to local agriculture; native habitat and doing restoration on-site.

Collin Robert, (in person), Yakima WA, **opposed**. Mr. Robert indicated that he was a 4<sup>th</sup> generation rancher of Robert Ranch and was supportive of the transition to solar energy. He indicated that banning all solar and wind power would hinder landowners in making decisions regarding their property and that each land use should be evaluated on a case-by-case basis.

Janet Grothe, (in person) Innergex Renewable Energy, Manager - Community and Government Relations, **opposed**. Ms. Grothe stated that her company had more than 30 years’ experience and that in July, Innergex reached out to Benton County and business organizations as Innergex was in the early stages of developing a solar energy facility in the Wautoma Valley, in the northwestern

portion of Benton County. She stated that collecting county tax would benefit Benton County and that community projects should be considered on its merit and on a case-by-case basis.

Chris Wissel-Tyson – webex; **opposed.** Mr. Tyson indicated that his company supports hybrid solars. He indicated that the ordinance was not technology specific, wanted to be part of the process as notice went out too quickly and solars were good for the economy as well as for private landowners. He asked that the County not to do a blanket ban.

Jens Rasmussen, (person), West Richland, WA, **opposed.** Mr. Rasmussen represents AgriNorthwest and he had three distinct concerns with the amendment: 1) community would be sent to the state instead of having a local process; 2) property owners would be damaged by these restrictions; and 3) the plan did not include local evaluation and process. He stated that the County would be better served by taking a more collaborative approach.

Blake Gilbertson (webex), Oregon, **opposed.** Mr. Gilbertson was working on a project with AgriNorthwest Renewables Project. Mr. Gilbertson asked that the county work to keep local control and review applications on a case-by-case basis so that the County would not lose any economic opportunities and benefits. Mr. Gilbertson spoke about EFSEC and about the contrast between smaller companies vs larger companies going through the State.

Nuno Louzeiro, (in person) Innergex Renewable Energy, Director of Development, **opposed.** Mr. Louzeiro indicated that renewable energy should be cited reasonably and indicated applications should be considered on a case-by-case basis. He indicated that Innergex was in the early stages of development and had invested considerable resources to access suitable sites. Mr. Louzeiro discussed the November 30, 2021 Planning Commission meeting and indicated there was no consideration to the benefits of solar energy. He further indicated that the proposed ordinance would have long term repercussions.

Beverly Heaverlo, (person) Yakima, WA, **opposed.** Ms. Heaverlo indicated that the proposed ordinance is not a once size fits all and indicated the Watcoma location was a remote area. Ms. Heaverlo indicated that banning would be a pre-mature decision. She further stressed that farming was hard any time of the year and this would be a financial hit for farmers and not a fair minded idea. She stated that she would like the County to reconsider and gave a handout.

David Robert, (in person), Grandview, WA, **opposed.** His family has owned Robert Ranch for 100 years; and would like applications be considered on a case-by-case basis. Mr. Robert wished for more time to have commissioners view the area and see it was an isolated location. He indicated there was opportunity to have solar out there.

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

Discussion: Commissioner Small said he knew farmers who have gone to Olympia and spoken about the financial process farmers go through. Commissioner Small also spoke about the marijuana grows and has tried the approval process on a case-by-case basis. He further mentioned that there is always the option going through the State process for which Benton County would not have the authority. He indicated that doing a case-by-case process would be difficult.

Commissioner McKay discussed growing up on a farm and understood farming circumstances; but indicated that solar and wind power are not consistent resources. He mentioned that even if the County went with a case-by-case basis, applicants could go to EFSEC which would ultimately have the final decision. Commissioner McKay also indicated that at this time, he would be in favor of possibly revisiting in the future as solar is less of an eye soar than windfarms and he was looking out for Benton County's future growth.

Commissioner Delvin indicated that he did not want Benton County to become the dumping site for renewables here in Western Washington. Commissioner Delvin indicated that he understood the plight for farmers and viewed this as a moratorium which could be looked at again in the future. Commissioner Delvin saw this as an opportunity to review our ordinances and identify areas within our region for boundaries to see what the future approach could be. He stated there was time to plan.

**MOTION:** Commissioner Small moved to adopt the Planning Commission's Findings and Conclusions as its own and approve the proposed amendments relating to renewable energy uses requiring a conditional use permit and amending the sections relating to allowable of Ordinance 611, Ordinance 617 and Ordinance 634 as noted in Planning casefile OA 2021-004. Commissioner McKay seconded and upon vote, the motion carried.

### **Public Comment - reopened**

Shelly Berg discussed the youth mental health emergency being created from all the lockdowns and isolation. She was happy to see the work Benton County and Franklin County were doing on working on a new crisis response facility and asked whether there was going to be a committee for that. Ms. Berg also discussed special ed PTA as she wanted to make sure youths' needs were being met and represented outside of school. Commissioner Delvin confirmed to Ms. Berg that an advisory committee would be created.

### **Scheduled Business**

#### **Request to Extend Temporary Housing Program Navigators in Human Services**

Karlee Ainsworth and Tammy McKeirnan came before the Board for approval of continuing funding for two temporary housing program navigators. Ms. McKeirnan indicated that Human Services is mostly grant funded and they have received many grants for eviction housing and the funds have been expanded which would be defunded if not used. The demand for assistance is growing and the grants can be lost if not disbursed. Ms. McKeirnan requested extending two temporary housing program navigators and adding another housing program navigator through June 30, 2025 or until the grant ends.

**Discussion:** Commissioner Delvin asked whether some grant money could be spent on more FTEs. Ms. McKeirnan indicated that grants can be used for additional assistance. Ms. McKeirnan indicated that staff still have regular grants to process in addition to the eviction housing grants.

Commissioner Delvin suggested that perhaps the Human Services Manager, Kyle Sullivan, evaluate whether additional staff can be used to cover all grants to eliminate staff burn out.

**MOTION:** Commissioner Small moved to approve the line item transfer to extend the funding for three temporary housing program navigators, positions 1267, 1270 and 1260 through June 30, 2025 or until the Emergency Rental Assistance Grant ends, whichever comes first. Commissioner McKay seconded and upon vote, the motion carried.

#### Request to Change Assistant Planning Manager to Planning Manager

Greg Wendt came before the Board for approval to change the assistant planning manager to the planning manager. Mr. Wendt indicated that this transfer was a budget neutral plan. He further indicated that the employee currently as the assistant planning manager, Michelle Cooke, has gained more experience and excelled in her duties. Mr. Wendt is recommending this change and Ms. Ainsworth also indicated that HR fully supports this change.

**MOTION:** Commissioner Small moved to approve the line item transfer changing position 1128 from Assistant Planning Manager to Planning Manager, Grade 8, in the managers salary scale. Commissioner McKay seconded and upon vote, the motion carried.

#### Other Business

Karlee Ainsworth and Auditor Brenda Chilton (via webex) discussed the long term care employee premium effective January 2022 and Governor Inslee's recent Order halting deduction until April. Because of this recent Governor Order, Auditor Chilton discussed the need for Board direction. Ms. Ainsworth is recommending holding off employee deduction for now. Ms. Chilton needed County direction via a verbal motion included in the minutes. Ms. Chilton discussed there being a gray area on the time frame with no clear direction at this time from the Governor and our Prosecuting Attorney's Office was not giving an opinion at this time. It was requested that the Commissioners suspend the deduction on a month-to-month basis until clear guidance is given.

Administrator MacPherson suggested making a motion suspending the deduction with Human Resources reviewing on a month-to-month basis until April. Commissioner Delvin suggested suspension be done for January and reviewed by the Board at the end of January.

**MOTION:** Commissioner Small moved to suspend the employee premium for Long Term Care for January. Commissioner McKay seconded and upon vote, the motion carried.

The Board briefly recessed, reconvening at 10:30 a.m.

#### Executive Session – Review Qualifications of Applicant for Public Employment

The Board went into executive session at 10:30 a.m. for up to 10 minutes with Karlee Ainsworth and Joshua Shelton to review the qualifications of an applicant for public employment. Also present were Jerrod MacPherson and Marilu Flores.

The Board came out at 10:33 a.m. No decisions were made in executive session.

**MOTION:** Commissioner McKay moved to approve the Salary Request Form as presented for Ronald Browning. Commissioner Small seconded and upon vote, the motion carried.

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

The Board went into executive session at 10:34 a.m. for up to 10 minutes with Sheriff Tom Croskrey and Undersheriff Jon Law to review the performance of a public employee. Also present were Jerrod MacPherson and Marilu Flores.

The Board came out at 10:45 a.m. No decisions were made in executive session.

**Payroll**

Check Date: 12/15/2021

Payroll Draw Checks  
Total all funds: \$112,587.84  
Warrant #: 243450-243452  
Direct Deposit #167613-167759

Payroll Draw Deduction Transfer  
Total all funds: \$19,676.09  
Taxes 101211213

**Accounts Payable**

Check Date: 12/13/2021

PCards #: 1221  
Total all funds: \$273,039.67

**Resolutions**

- 2021-896 Appointments to the Benton County Accessible Community Advisory Committee
- 2021 897 First Amended Historic Preservation Grant Agreement w/Benton City Revitalization Organization
- 2021 898 Agreement w/WA Administrative Office of the Courts for Reimbursement of Interpreter Costs
- 2021 899 Establishing Insurance Benefits Contribution for Non-Bargaining Employees & Elected Officials
- 2021 900 Establishing Insurance Benefits Contribution for Bi-County Non-Bargaining Employees
- 2021 901 Three-Year Subscription Renewal for LegalServer From PS Technologies
- 2021 902 Annual Subscription for NextRequest Public Records Management From SHI International Corp.
- 2021 903 Superior & District Court Public Defense Interpreting Services Agreement w/Sylvia Garza

- 2021 904 Superior & District Court Public Defense Interpreting Services Agreement w/Bertha Ramon-Arteaga
- 2021 905 Maintenance & Upgrade Fees to Cascade Software Systems for Cost Accounting Software
- 2021 906 Approving A Public Hearing for the Amendment of the 2022-2027 Six-Year Road Program
- 2021 907 Contract w/FastSigns 280501 for Installing Window Film @ The Administration Building
- 2021 908 2<sup>nd</sup> Amended Contract w/Wave Design Group for Redesign of the Justice Center Front Entrance
- 2021 909 Contract w/On Scene Medical Services for Pre-Hire Physicals & Drug/Alcohol Testing
- 2021 910 Consultant Agreement for On-Call Surveying Services w/HLA Engineering & Land Surveying
- 2021 911 Purchase of Thermoplastic Markings From Traffic Safety Supply for Public Works
- 2021 912 First Amended Contract w/Public Safety Psychological Services for Evaluations in the Sheriff's Office
- 2021 913 Interlocal Agreement w/City of West Richland for General Equipment and/or Services
- 2021 914 First Amendment to Contract w/Continental Door Company for Repairs on Garage Doors
- 2021 915 Moorage Agreement w/Port of Kennewick & Sheriff's Office to a Maintain Boat Slip @ Clover Island
- 2021 916 Grant Award & Contract w/WA State Health Care Authority for Opioid Treatment Network @ the Jail
- 2021 917 Agreement w/WA State Administrative Office of the Courts for Reimbursement of Interpreter Services
- 2021 918 Short Plat Vacation; SPV 2021-005 ~ M Cooke
- 2021 919 Ordinance Amendment OA 2021-004 ~ G Wendt & M Cooke
- 2021 920 Line Item Transfer, Fund No. 0108-101, Dept. 560
- 2021 921 Line Item Transfer, Fund No. 0000-101, Dept. 116

There being no further business before the Board, the meeting adjourned at approximately 10:46 a.m.

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Clerk of the Board

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Chairman