



Minutes – Board of County Commissioners

Regular Board Meeting
Benton County Administration Building
Commissioners' Hearing Room, Kennewick, WA
Tuesday, January 9, 2024 9:00 AM

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

Present: Chairman Will McKay
Commissioner Jerome Delvin
Commissioner Michael Alvarez
County Administrator Jerrod MacPherson
Clerk of the Board Amanda Pearson

Benton County Employees Present During All or a Portion of the Meeting: Deputy County Administrator, Matt Rasmussen; Information Technologies Manager, Robert Heard; Human Resources Manager, Carlee Nave; Community Development Director, Greg Wendt; Clerk, Josie Delvin; Deputy Prosecuting Attorney, Ryan Brown; Risk Manager, Adam Morasch; Treasurer, Ken Spencer; IT Supervisor, Cody Shelton; Director of Operations and Capital Assets, Robert Blain; Prosecuting Attorney, Eric Eisinger; Finance Manager, Linda Ivey; Security Program Coordinator, Steve Caughey; Operations Manager, Matt Mahoney; Event Center Manager, Tom French; Procurement/Contract Coordinator, Danica Hope; Construction Manager, Riley Ollero; Communications Coordinator, Glenn Vaagen; Elections Manager, Amanda Hatfield

Pledge of Allegiance

The Board recited the Pledge of Allegiance.

Approval of Minutes

The Minutes of December 19, 2023 were approved.

Review Agenda

County Administrator, Jerrod MacPherson, added the following:

- A second Executive Session regarding Union Negotiations

Public Comment

Paul Krupin of Tri-City Cares read a typed statement that he also submitted to the Clerk of the Board to be distributed to the Commissioners. Mr. Krupin's letter related to the Horse Heaven Wind and Solar Project and the Energy Facility Site Evaluation Council's (EFSEC) decision to create a Council Mitigation Option. He requested that the Commissioners consider signing and sending the letter he submitted to EFSEC requesting that they make the final draft report and decision documents

available publicly and to allow the public adequate time to review and provide meaningful comments to the Council before the Council takes a final action.

Tina Gregory thanked Commissioner Alvarez and congratulated the county on passing the Public Safety Sales Tax (PSST). She requested the support of businesses that support pro-life. She also spoke on concerns relating to godlessness and freedom of speech, and requested the Commissioners pass ordinances against crime.

Consent Agenda

MOTION: Commissioner Delvin moved to approve the consent agenda items “a” through “ss”. Commissioner Alvarez seconded and upon vote, the Board approved the following:

Auditor

- a. Payroll ~ Check Posting List for 12/15/2023
- b. Accounts Payable ~ Check Posting List for 12/18/2023
- c. Accounts Payable ~ Check Posting List for 12/22/2023
- d. Accounts Payable ~ Check Posting List for 12/27/2023
- e. Accounts Payable ~ Check Posting List for 12/29/2023 A
- f. Accounts Payable – Check Posting List for 12/29/2023 B

Cares Act/Coronavirus Response & Relief Supplemental Appropriation Act

- g. Line-Item Transfer, Fund No. 0010, Dept. 139 for Equipment at the Event Center

Commissioners

- h. Organization of Benton County Commissioners for 2024

Human Resources

- i. Updating Benton County Personnel Policies and Procedures for Elected Officials and Non-Bargaining Employees, Amending Resolution 2014-306

Information Technology

- j. Purchase of Seven Apple iPad Tablets for ER&R Department from Strictly Technology LLC
- k. Agreement with United Training Commercial LLC for Online Professional Training
- l. Purchase of One Cisco WebEx Room Kit Mini for Public Works from Brahma Enterprises
- m. Installation and Programming of WebEx Conferencing Equipment for the New Jury/Training Room at the Justice Center
- n. Purchase of Two Laptops, One Dock and Two Monitors for the Coroner’s Office from Dell, Inc.

Office of Public Defense

- o. Agreement with Shawna Morris, dba Harrington Investigations, PC for Public Defense Investigative Services
- p. Agreement with Abel Campos, dba Premier Investigations, LLC for Public Defense Investigation Services
- q. Agreement with Shane Morlan, dba Exhibit A Investigations for Public Defense Investigation Services
- r. Agreement with Shane Harrington, dba Harrington Investigations, PC for Public Defense Investigative Services
- s. Amending Superior Court Public Defense Services Agreement with Dawn Hickman to Include District Court Drug Court
- t. District Court Public Defense Agreement with Adam Pechtel
- u. District Court Public Defense Agreement with Gregory Halvorsen
- v. Termination of Superior Court Public Defense Services Agreement with Brian Hultgrenn
- w. Termination of Superior Court Public Defense Services Agreement with Deric Orr
- x. Termination of Superior Court Public Defense Services Agreement with Michael Vander Sys

- y. Termination of Juvenile Court Public Defense Services Agreement with Hayden Sebald
- z. Termination of Juvenile Court Public Defense Services Agreement with Jared Hanson

Planning

- aa. Appointment of Kelly Hanson to the Benton County Planning Commission

Public Safety Tax

- bb. Line-Item Transfer, Fund No. 1480, Dept. 122

Public Works

- cc. Ratification of Network Agreement with City of Seattle for Access of Washington State Reference Network Accounts
- dd. Line-Item Transfer, Fund No. 5010, Dept. 650 for Correction of Account for Charges in Prior Years
- ee. Adoption of ER&R Vehicle Rates/Assessments for Department Vehicles
- ff. Adoption of ER&R Department Shop Rate

Purchasing

- gg. First Amended Contract with Meier Enterprises, Inc. for the Moderate Risk Waste Facility Ventilation System Upgrade
- hh. First Amended Contract with Meier Enterprises, Inc. for the Coroner's Autopsy Ventilation System Upgrade
- ii. Contract with DeAtley Crushing Company for 2023 Crushing Project In Public Works Department
- jj. Advertise for Selection of Contractor/Engineer for the Justice Center HVAC Upgrade Project
- kk. Ratifying Change Order Proposals Nos. 3, 4, 7-9 with Banlin Construction, LLC for the Justice Center Tenant Improvement Project
- ll. Contract with Banlin Construction for Election Center Remodel Project
- mm. Agreement with Paramount Communication, Inc. for Installing Fiber Runs to Elections Center Building
- nn. Payment Authorization to Benton REA for Electrical Connection for Red Mountain Emergency Communications Tower
- oo. First Contract Amendment with MMEC Architecture & Interiors, LLC for the Justice Center Campus Wayfinding Project
- pp. First Contract Amendment with MMEC Architecture & Interiors, LLC for the Elections Center Remodel Project
- qq. Amended Contract with Chervenell Construction Company for Phase I of the Juvenile Justice Project

Risk

- rr. Amendment to Resolution 23-810 for Business Name Change from PayneWest Insurance to Marsh McLennan Agency

Sustainable Development

- ss. Property Tax Exemption Application for Industrial/Manufacturing Uses for Targeted Urban Areas

Chairman duties officially transitioned from Commissioner McKay to Commissioner Delvin.

Public Hearing

Repealing Ordinance 535, Section 9 & BCC.8.12C.090 Relating to Sales and Use Tax-Public Safety Tax Expiration Date/Sunset Clause

With the recent passage of the Public Safety Sales Tax, the Prosecuting Attorney's Office suggested the county take action to repeal Ordinance 535, Section 9, and Benton County Code 8.12C.090 in their entirety due to the section stating the tax expires on 12/31/2024.

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

Commissioner Alvarez motioned to approve a Resolution and Ordinance to repeal Ordinance 535 in its entirety. Commissioner McKay seconded the motion. The motion passed as presented.

Agreement with City of West Richland for the Revision of Corporate Boundary

Matt Rasmussen and Matt Mahoney

RCW 35A.21.210 authorizes code cities and counties to revise any part of a corporate boundary of a city which “coincides with the centerline, edge, or any portion of a public street, road or highway right of way by substituting therefor a right of way line of the same public street, road or highway so as fully to include or fully to exclude that segment of the public street, road or highway from the corporate limits of the city”.

The City of West Richland seeks to revise a portion of the corporate boundary of the city to include the West right-of-way line of Webster Avenue in coordination with Benton County.

The City of West Richland desires to design and maintain this segment of Webster Avenue under City urban standards.

WA State Military Department State and Local Cybersecurity Grant Program

Robert Heard

On July 11, 2023, the Information Technology Department (IT) during Scheduled Business asked the Board for permission to pursue Washington State Military Department’s competitive State and Local Cybersecurity Grant Program (SLCGP) passthrough funding for local agencies. The Board approved IT’s request. Proposals were due by July 18, 2023. IT turned in three projects.

Firewall Replacement \$179,093 Project approved for 2023 Federal Funding. Total per year estimated project cost is \$29,182. DotGov Domain Name Space (DNS) Hosting \$16,688 Project approved for 2022 Federal Funding. Storage Area Network Increase \$85,000 Project was not approved for federal funding. The County may be able to review and adjust for future grant money.

For fiscal year 2022, the Military Department approved \$16,688 in federal funding for the County’s DotGov project with the Firewall Replacement project approved for 2023 federal funding. The Military will be working with IT to review the total Firewall Replacement costs and provide the County with recommendations for acceptable project expenses. The SAN Increase project was not approved this year. The Military has asked IT to review and adjust our SAN project scope and costs for resubmittal in 2024. Approved SLCGP projects will be automatically rolled into the next fiscal year projected WA State federal fund allocation and projects will be reviewed again by the Military before funds are approved for release.

To receive federal funds from the Military, the County has been asked to sign several contract documents. These documents have been reviewed by the Prosecuting Attorney’s Office, Civil Division. The Auditor’s Office has reviewed the Audit Certification and FFATA Reporting form and provided State Auditor report numbers and dates of previous County federal funding audits. In addition to the Board contract signatures, the Treasurer and Deputy Treasurer will be asked to sign the Signature Authorization Form.

MOTION: Commissioner Alvarez moved to approve the Washington State Military Department State and Local Cybersecurity Grant Program. Commissioner McKay seconded and upon vote, the motion carried as presented.

Discussion of Bylaws and Rules of Procedures for the Board of County Commissioners

Matt Rasmussen and Ryan Brown

Deputy County Administrator, Matt Rasmussen, shared that recently a trend has been developing in which the public comment period of open public meetings is being used by persons to make racist and other offensive comments. This has been occurring in multiple states and has reached several city meetings in Washington State. The commentators engaged in this activity are most often doing so through remote participation, which Benton County allows.

Benton County has some rules on public comments but those are fairly limited and essentially allow a person to speak about any topic they like within the time allotted. While it may be tempting to create rules prohibiting hate speech or other offensive comments, such a rule could run afoul of first amendment rights and in certain situations could be difficult to apply. However, the Board can and should take one or more measures to allow it to handle such situations more easily should it be confronted with members of the public engaging in hate speech or other racist and offensive comments. Some options to consider are:

1. Limit comments to items only listed on the agenda. While this may be appealing, it is also very limiting to persons who want to speak about a matter that is relevant but may not actually appear on the current meeting agenda.
2. Limit comments to items relevant to, and within the purview and authority of, the Board of County Commissioners. This option allows for a broad array of topics but still gives the Board the authority to stop a commentator if they engage in comments outside of the Board's statutory authority. This option would likely allow the Board to terminate the type of problematic speech that other jurisdictions have recently encountered. However, the Board would need to consistently apply this rule to avoid claims of First Amendment violations. In other words, the Board would not have the discretion to shut down hate speech utilizing this rule but then allow others to discuss some less offensive topic that also was outside the Board's statutory authority. The Board cannot discriminate based on the content of the speech.
3. Remove the ability for remote public comment. Current state law does not require that remote participation in meetings be offered to all persons, but it is encouraged. However, this option has its own perils. RCW 42.30.240(2) would require you make an exception and allow public comment by persons remotely if needed due to disability, limited mobility or any other reason that would make physical attendance at the meeting difficult for someone. Applying this exception may be difficult for the Board. Also, not allowing remote comment in general could be appeared as favoring commentators who are in person versus appearing remotely and would limit public participation for those who cannot appear in person and do not articulate why it would be difficult for them to attend in person.

Discussion among the Commissioners regarding their thoughts whether to make any changes to what is already in place. Commissioner Delvin confirmed after discussion that the consensus was to keep everything the same, not to make any changes and adjust the policy as needed.

Other Business

Commissioner Delvin had additional comments regarding Small Engine HB 2151 and that he would like the County's Lobbyist to oppose it.

Conversation relating to HB 2117 and consensus for staff to draft a letter for the board to sign and send said letter supporting Paul Krupin of Tri-City CARES' comment to the EFSEC Director and Chair.

Executive Session – Union Contract Negotiations (x2)

The Board went into executive session at 9:40 a.m. for up to 15 minutes with Deputy Prosecuting Attorney Ryan Brown and Human Resources Manager, Carlee Nave. Also present were Jerrod MacPherson, Matt Rasmussen, and Amanda Pearson.

The Board came out at 9:55 a.m. No decisions were made in executive session.

Commissioner Alvarez moved to approve the Step 3 Grievance Response Letter. Commissioner McKay seconded and the motion carried.

Tort Claim:

Thurston County Coroner's Office received 1/8/2024 CC 2024-01

Payroll

Check Date: 12/15/2023

Payroll Draw Checks
Total all funds: \$ 126,546.16
Warrant #: 244327-244328
Direct Deposit #: 185762-185905

Payroll Draw Deductions/Transfers
Total all Funds: \$ 23,701.12
ACH #: 1433-1437

Accounts Payable

Check Date: 12/18/2023

Warrants #: 252146
Total all funds: \$75.00

Check Date: 12/22/2023

Warrants #: 252299-252442
Total of all Funds: \$ 2,340,975.06

EFT #: 733
Transfers #: 1438, 1449
Total of all Funds: \$ 19,391.68

Check Date: 12/27/2023

Warrants #: 252443

Total of all Funds: \$ 4,166.00

Check Date: 12/29/2023

EFT's #: 734-753

Total of all Funds: \$ 183,710.53

Check Date: 12/29/2023

Warrants #: 252444-252512

Total of all Funds: \$ 655,543.61

EFT's #: 754-759

Transfers #: 1450-1454, 1457

Total of all Funds: \$ 64,354.87

Resolutions

- 2024-0001 Line-Item Transfer, Fund No. 0010, Dept. 139 for Equipment at the Event Center
- 2024-0002 Organization of Benton County Commissioners for 2024
- 2024-0003 Updating Benton County Personnel Policies and Procedures for Elected Officials and Non-Bargaining Employees, Amending Resolution 2014-306
- 2024-0004 Purchase of Seven Apple iPad Tablets for ER&R Department from Strictly Technology LLC
- 2024-0005 Agreement with United Training Commercial LLC for Online Professional Training
- 2024-0006 Purchase of One Cisco WebEx Room Kit Mini for Public Works from Brahma Enterprises
- 2024-0007 Installation and Programming of WebEx Conferencing Equipment for the New Jury/Training Room at the Justice Center
- 2024-0008 Purchase of Two Laptops, One Dock and Two Monitors for the Coroner's Office from Dell, Inc.
- 2024-0009 Agreement with Shawna Morris, dba Harrington Investigations, PC for Public Defense Investigative Services
- 2024-0010 Agreement with Abel Campos, dba Premier Investigations, LLC for Public Defense Investigation Services
- 2024-0011 Agreement with Shane Morlan, dba Exhibit A Investigations for Public Defense Investigation Services
- 2024-0012 Agreement with Shane Harrington, dba Harrington Investigations, PC for Public Defense Investigative Services
- 2024-0013 Amending Superior Court Public Defense Services Agreement with Dawn Hickman to Include District Court Drug Court
- 2024-0014 District Court Public Defense Agreement with Adam Pechtel
- 2024-0015 District Court Public Defense Agreement with Gregory Halvorsen
- 2024-0016 Termination of Superior Court Public Defense Services Agreement with Brian Hultgrenn
- 2024-0017 Termination of Superior Court Public Defense Services Agreement with Deric Orr

- 2024-0018 Termination of Superior Court Public Defense Services Agreement with Michael Vander Sys
- 2024-0019 Termination of Juvenile Court Public Defense Services Agreement with Hayden Sebald
- 2024-0020 Termination of Juvenile Court Public Defense Services Agreement with Jared Hanson
- 2024-0021 Appointment of Kelly Hanson to the Benton County Planning Commission
- 2024-0022 Line-Item Transfer, Fund No. 1480, Dept. 122
- 2024-0023 Ratification of Network Agreement with City of Seattle for Access of Washington State Reference Network Accounts
- 2024-0024 Line-Item Transfer, Fund No. 5010, Dept. 650 for Correction of Account for Charges in Prior Years
- 2024-0025 Adoption of ER&R Vehicle Rates/Assessments for Department Vehicles
- 2024-0026 Adoption of ER&R Department Shop Rate
- 2024-0027 First Amended Contract with Meier Enterprises, Inc. for the Moderate Risk Waste Facility Ventilation System Upgrade
- 2024-0028 First Amended Contract with Meier Enterprises, Inc. for the Coroner's Autopsy Ventilation System Upgrade
- 2024-0029 Contract with DeAtley Crushing Company for 2023 Crushing Project In Public Works Department
- 2024-0030 Advertise for Selection of Contractor/Engineer for the Justice Center HVAC Upgrade Project
- 2024-0031 Ratifying Change Order Proposals Nos. 3, 4, 7-9 with Banlin Construction, LLC for the Justice Center Tenant Improvement Project
- 2024-0032 Contract with Banlin Construction for Election Center Remodel Project
- 2024-0033 Agreement with Paramount Communication, Inc. for Installing Fiber Runs to Elections Center Building
- 2024-0034 Payment Authorization to Benton REA for Electrical Connection for Red Mountain Emergency Communications Tower
- 2024-0035 First Contract Amendment with MMEC Architecture & Interiors, LLC for the Justice Center Campus Wayfinding Project
- 2024-0036 First Contract Amendment with MMEC Architecture & Interiors, LLC for the Elections Center Remodel Project
- 2024-0037 Amended Contract with Chervenell Construction Company for Phase I of the Juvenile Justice Project
- 2024-0038 Amendment to Resolution 23-810 for Business Name Change from PayneWest Insurance to Marsh McLennan Agency
- 2024-0039 Property Tax Exemption Application for Industrial/Manufacturing Uses for Targeted Urban Areas
- 2024-0040 Repealing Ordinance 535, Section 9 & BCC.8.12C.090 Relating to Sales & Use Tax-Public Safety Tax Expiration Date/Sunset Clause
- 2024-0041 WA State Military Department State & Local Cybersecurity Grant Program
- 2024-0042 Agreement w/City of West Richland for the Revision of Corporate Boundary

There being no further business before the Board, the meeting adjourned at approximately 9:56 a.m.

Clerk of the Board

Chairman