

COMMISSIONERS RECORD 48
FRANKLIN COUNTY
Commissioners' Proceeding for December 17, 2007

The Honorable Board of Franklin County Commissioners met on the above date. Present for the meeting were Bob Koch, Chairman; Neva J. Corkrum, Chair Pro Tem; and Rick Miller, Member; Fred Bowen, County Administrator; and Mary Withers, Clerk to the Board.

OFFICE BUSINESS

Secretary Patricia Shults met with the Board.

Consent Agenda

Motion - Mr. Miller: Mr. Chairman, I move that we accept the December 17, 2007, consent agenda:

1. Approval of **Resolution 2007-650** establishing the organization of Franklin County Commissioners for the year 2008.
2. Approval of **joint Resolution 2007-651** in the matter of the request for signature from the Chairman of the Boards of Benton and Franklin County Commissioners for an amendment, number 07/09-DD-CI-1, between the Benton and Franklin Counties Department of Human Services and Columbia Industries, to provide employment support services for a maximum of 20 individuals with developmental disabilities who are exploring career development. (Exhibit 1: Information sheet.)
3. Approval of **joint Resolution 2007-652** in the matter of the request for signature from the Chairman of the Boards of Benton and Franklin County Commissioners on the Personal Services Contract between the Juvenile Justice Center and Community Health Clinics, Inc., dba, Terry Reilly Health Services, effective November 1, 2007, through September 30, 2009. (Exhibit 2: Information sheet.)
4. Approval of **Resolution 2007-653** reappointing Bruce Whitemarsh to serve on the Franklin County Board of Equalization for a three-year term, expiring December 31, 2010. (Exhibit 3: Information sheet.)

Second by Mrs. Corkrum. 3:0 vote in favor.

Vouchers/Warrants

Motion – Mrs. Corkrum: I move for approval of payment of the following vouchers/warrants: Current Expense warrants 60577 through 60640 for \$49,218.57; Current Expense warrants 60641 through 60679 for \$22,719.65; and Current Expense warrant

COMMISSIONERS RECORD 48
FRANKLIN COUNTY
Commissioners' Proceeding for December 17, 2007

60680 for \$710.00; for a total amount of \$72,648.22. Second by Mr. Miller. 3:0 vote in favor. (Exhibit 4)

TRAC

TRAC Manager Troy Woody met with the Board.

Award of Bid: TRAC Environmental Controls System RFP

Mr. Woody recommended award of bid to Control Solutions Northwest, Inc., at a bid price of \$25,059 including tax. He said the big difference between the two bids is that half the current system is on Carrier and half is on DDS. Control Solutions owns DDS so they can talk to DDS by just putting a computer outside. Carrier would have to make physical changes to every unit in order to talk to DDS.

Motion – Mr. Miller: Mr. Chairman, I move that we approve the bid proposal of \$25,059 including sales tax for the TRAC Center Environmental Controls System RFP to Control Solutions Northwest, Inc. Second by Mrs. Corkrum. 3:0 vote in favor. (Exhibit 5)

Events

Mr. Woody said there were four Christmas parties at the same time at TRAC with about 1200 people in attendance. He said the staff was flawless. There were no issues. No one worked less than a 12-hour day.

The Best of the West Wrestling Tournament will be held Wednesday and Thursday. A Bull Bash will be held after Christmas.

Many of the lighted signs are already in place in the arena. Businesses have paid for advertisements in the lighted signs.

MINUTES

Motion – Mrs. Corkrum: I move for approval of Commissioner Proceedings for December 5 and December 10, 2007. Second by Mr. Miller. 3:0 vote in favor.

COUNTY ADMINISTRATOR

County Administrator Fred Bowen met with the Board.

Executive Session at 9:26 am regarding purchase of property based on RCW 42.30.110(1)(b).

Open Session at 9:28 am.

COMMISSIONERS RECORD 48
FRANKLIN COUNTY
Commissioners' Proceeding for December 17, 2007

Bid Award: Proposals to furnish all labor and materials to complete the Supplemental Handrail at Historic Stairway Project

Mr. Bowen said the county has received a formal notice by a bidder regarding a bid irregularity. He has forwarded it to Chief Civil Attorney Ryan Verhulp for review. He asked for approval to postpone the bid award. The Board decided the bid award will be postponed until further notice.

Human Resources Director Rosie H. Rumsey joined the meeting.

Executive Session at 9:30 am regarding contract negotiations based on RCW 42.30.140(4) expected to last 15 minutes.

Executive Session continued at 9:47 am expected to last five minutes. One person waiting outside the room was notified.

Open Session at 9:50 am.

PUBLIC WORKS

Engineer Tim Fife met with the Board. Present in audience: Tom Kay, Frankie Erickson and John Ziobro.

Resolution: Task Assignment Agreement Road 100/Dent Road Extension

Mr. Fife asked for approval of an agreement with the state regarding the Road 100 project right-of-way. The cost is anticipated to be \$60,000.

Motion – Mr. Miller: Mr. Chairman, I move that we accept the Road 100/Dent Road Extension, Franklin County CRP 593: Approval of Task Assignment Agreement pursuant to Paragraph II-A of Governmental Agreement for Aid, GCA 3423, in the amount of \$60,000. This is Resolution 2007-654.

Vouchers

Motion – Mr. Miller: Mr. Chairman, I move that we accept the vouchers as listed: County Road Fund for \$11,911.15; MV & PW Equipment Fund for \$47,441.40; Solid Waste Fund for \$1072.96; and Solid Waste Fund – Litter for \$276.68. Second by Mrs. Corkrum. 3:0 vote in favor. (Exhibit 6)

Recessed at 9:56 am.

Reconvened at 10:15 am.

COMMISSIONERS RECORD 48
FRANKLIN COUNTY
Commissioners' Proceeding for December 17, 2007

PLANNING AND DEVELOPMENT DEPARTMENT

Planning Director Jerrod MacPherson and Assistant Director Greg Wendt met with the Board.

Closed Record Public Hearing: To consider an appeal of the Planning Commissioner's recommendation of approval for an application by Thomas Kay (Flower Farm) for Conditional Use Permit CUP 2007-15 to operate a garden nursery establishment.

Closed Record Public Hearing convened at 10:15 am. Present: Commissioners Koch, Corkrum and Miller; County Administrator Fred Bowen; Planning Director Jerrod MacPherson; Assistant Director Greg Wendt; and Clerk to the Board Mary Withers. Present in audience: Tom Kay, Frankie Erickson, Janet Johnson, John Ziobro, Judy Goody, Elizabeth Kay, Gayle Kay, Carole Moe, Julie Harrison, Engineer Tim Fife, Planning Commission Chairman Dave Piovesan, Assistant Engineer Guy Walters, Code Enforcement Officer Jerry Lingo, Planner Jeremy Underwood, and another woman. (Exhibit 7: Sign-in sheet)

Mr. Koch read the Closed Record Public Hearing Process from the Action Summary (Exhibit 8).

Mr. Wendt reviewed the information on the Action Summary.

Mr. MacPherson showed a copy of the parcel map with 2004 aerial photographs on the screen. He also showed a site plan that was the original site plan submitted by the applicant. He showed a revised site plan submitted by the applicant, which the applicant had revised due to some concerns about traffic from the original plan.

Mr. Wendt summarized the conditions of approval that the Planning Commission considered. He said the Planning Commission recommended approval with the six findings and nine conditions.

Mr. Koch asked if the appellant or appellant representative would come forward and state their name.

John Ziobro, attorney representing Janet Johnson, spoke. He drafted a letter that would contain the objections of Ms. Johnson. Mr. Koch said this is a closed record public hearing. Mr. MacPherson said it ventures into the area of new testimony.

COMMISSIONERS RECORD 48
FRANKLIN COUNTY
Commissioners' Proceeding for December 17, 2007

Mr. Ziobro said it is based on the hearing; there is no new testimony. Mrs. Corkrum suggested Mr. Ziobro read from the letter.

Mr. Ziobro said as a starting point, conditional use permits are issued because issues aren't outright permitted. He pointed to Ms. Johnson's property on the map on the screen. He said he thinks anyone could look at that and question whether it is really the best place to locate the business. He said the county comprehensive plan is supposed to ensure compatibility and reduce conflict with uses, but this does just the opposite. It creates conflict because it's inappropriately sited. He said if you wanted to properly site this use, especially the intense use, you could put it in the middle or maybe you could ask the property owner why it's good enough to be next to Ms. Johnson but not next to her neighbor's property.

Mr. Ziobro said the county's ordinance and RS-20 zoning code does not list this use as a conditional use. He said he thinks if you were to have this application appealed, you would have to find some justification for why this use fits. He read from the county's zoning code, Chapter 14, which he said is the RS-20 zoning that lists the conditional permitted uses. He also referred to a grid that he thinks is under Chapter 33. However, he feels there is a strong basis to say this use is not listed as a conditional use in the zone and shouldn't be approved.

He said frankly Ms. Johnson does not want this use because it's going to impact her property and because it's inappropriately located but if it needs to go in, she has some other concerns. He said the application was sent to the City of Pasco for comment and the City of Pasco stated the property currently has not dedicated the right-of-way for Road 68. He explained other concerns about the Road 68 area. He feels the county staff hasn't incorporated those comments into the conditions to be imposed. He said this is an urban growth area and someday it will be in the city. He said another policy states you have to work with cities.

Mr. Ziobro said the business has been in existence on Court Street for several years. There's no analysis as to what the traffic count is created by this use, although it's readily available if looked into, and there's no evaluation as to what the safety concerns

COMMISSIONERS RECORD 48
FRANKLIN COUNTY
Commissioners' Proceeding for December 17, 2007

are. He talked about some traffic concerns. He said we believe it was error to not incorporate the City of Pasco's recommendations.

As I indicated, your comprehensive plan policy is to ensure compatibility and reduce conflict with farm uses and urban uses and to establish requirements including siting criteria and setbacks.

The other problem you have is if you look at the trend in this area, it's residential. The most recent application you have in this area is Buttercreek Estates. He said he feels that will be the trend in this area. He said the logical growth of this area is, number one, it's in the urban growth area so the county and the city have already determined that this is going to be part of the City of Pasco one day, and when it is, it's going to be residential. As you know, businesses don't like to move every couple of years. Someday this use is going to be incompatible. Someday it may need to move when it's no longer compatible. He said the responsible thing to do as elected officials is to deal with whether we will make it move later. Maybe it should be located elsewhere now. Maybe we should put safeguards in at this time. When residential goes all around it, it won't be a complaint for the neighbors, it could be something that they'll live with.

Along those lines when you talk about mitigation, there is a suggestion that trees or arborvitae be planted around here (indicated). The record is void of any discussion as to whether arborvitae provides a noise buffer. I can tell you based on experience that it takes a solid object to buffer noise. Another problem is that uncontrolled height of arborvitae creates shade. It would prevent Ms. Johnson's lawn from growing. It could cause other problems on her property.

Prosecutor Steve Lowe joined the audience briefly.

If you're doing it for noise, it's not going to mitigate noise at all. He talked about having a visual barrier.

Mr. Koch said you have about 30 seconds.

Mr. Ziobro said there are natural barriers that you could put in that would be visually pleasing.

COMMISSIONERS RECORD 48
FRANKLIN COUNTY
Commissioners' Proceeding for December 17, 2007

He said either a SEPA checklist or stating of a categorical exemption is required but the record is void of that item.

Mr. Ziobro said at a minimum you should remand this and send it back. If you're going to mitigate because of noise, give her a true noise buffer, because arborvitae is not going to do it. He asked the Board to take a look at traffic based on historical use generated by this business.

Mr. Ziobro said he would recommend you send this packet to your legal advisor to see if this meets with your code.

He closed, saying, with that, I'd be glad to answer any questions.

Mr. Koch asked Mr. Kay to speak.

Mr. Kay said he is the party filing this Conditional Use Permit application. He read from a paper. The Flower Farm has been located at Road 68 and Court Street for many, many years. We have been leasing the ground from a gentleman living in Seattle who is no longer renewing the lease. We must finish vacating by the end of the month. As we disassemble everything, we try to keep the mess to a minimum. We are continually moving our things to storage. The unexpected loss of our lease has placed us in transition. We wanted to remain nearby and were very fortunate to have Frankie Erickson offer her farm as a new home. He has worked with Planning Department staff, Public Works Department, and others. He said everyone seemed to be focused on traffic issues. He was told the City of Pasco plans to install a traffic light at the Road 68/Court Street intersection next spring. The city engineering staff indicated that they also recommended a separate entrance and exit. The county engineer has had input. Mr. Kay talked about the plans for traffic flow into and out of the business, with a marked separate entrance and exit. He said we are seasonal in nature with April and May being the busiest months and weekends being the busiest days. The total traffic would be similar to any other previous spring. With the engineering suggestion in mind, we tried to design a nursery that would blend in well and be similar to other nurseries around the Northwest. He described what the business will look with landscaping and a retail sales building that will look similar to a horse barn.

COMMISSIONERS RECORD 48
FRANKLIN COUNTY
Commissioners' Proceeding for December 17, 2007

A woman joined the audience at 10:37 am.

Mr. Kay told about his various conversations with Ms. Johnson. He offered to build her either a cedar fence or plant arborvitae. She chose the arborvitae. He reviewed various meetings he had with Ms. Johnson and the concerns she expressed about the sales barn, distances from her home, and entrances and exits. He said she was quite insistent about the car noise so he redesigned the parking lot, moving the entrance. He attempted to slow the traffic even further and placed an exit at the south end of the property. With the new design, his entrance drive would now be more than twice the distance from Mrs. Johnson's house as Road 68 is from her house.

Mr. Kay said the Flower Farm has been in existence for almost 25 years. The same customers will be the same ones coming to the Flower Farm next spring. This relocation will not generate brand new traffic.

Mr. Kay said he thought he had resolved the problem with the noise but that was met with Ms. Johnson's concerns about her horses and about emphysema. He said she found fault with his parking area, with the engineers, and with the Planning Department staff. He said Ms. Johnson convinced some neighbors to sign a petition. He has since talked to many of the people that signed the original petition. He held up a list of the same neighbors who have now changed their minds (indicated).

Mr. Kay said the Planning Commission followed correct procedure and exercised correct judgment. The Conditional Use Permit is the vehicle used to authorize such use. We are agriculture by nature. He said further, no factual nature has been demonstrated that this will harm Mrs. Johnson nor any other person in Franklin County. He said there was no error in the findings of fact presented by the Planning Department. There was no misjudgment by the Planning Commission.

Mr. Koch told Mr. Kay he has 30 seconds left.

Mr. Kay said the Flower Farm has been an active member of the community and listed many ways they have contributed to the community.

Mr. Koch asked if the Board has any questions at this time.

COMMISSIONERS RECORD 48
FRANKLIN COUNTY
Commissioners' Proceeding for December 17, 2007

Mr. Miller asked about the zoning. Mr. MacPherson said it's residential suburban 20 zoning. The comprehensive plan for this area is guided through the City of Pasco so staff visited with City Planning Department and both felt this is a good interim use of the property.

Mr. MacPherson said commercial ag use is allowable by conditional use permit. Mr. MacPherson said it is virtually impossible to list every permitted use within the specific ordinance. He said if a use is not specifically listed in the text, it is cross-referenced to the use area which spells out all uses. Mr. Wendt said that is standard practice.

Mr. Miller asked Mr. Kay if the arborvitae that will be placed as a block are permanent and not for sale. Mr. Kay indicated yes.

Mrs. Corkrum asked if the arborvitae will be six foot high at the start. Mr. Kay said they are going to be six feet by request. Mrs. Corkrum said on other conditional use permits that the county has required arborvitae, the six foot height has been a standard, but she's gone out and seen little tiny ones. That's why she is asking the question, that the six foot will be the starting point. Mr. Kay said further back they will be reduced to four feet.

Mr. Koch asked Mr. Kay about the trees that will be planted in five rows on the north side. Mr. Kay said we will have 50 feet of trees. Mr. Koch asked, those aren't display trees? They will be in your sales area? Mr. Kay said those trees will be for sale, that's right. The 50 feet this way from the arborvitae (indicated) will be a tree display but it was felt that they would also act as an additional buffer as far as noise from anyone in the nursery because we won't sell that many trees as compared to bedding plants and vegetables. We are trying to add more distance to limit any possible concern about noise and privacy.

Mr. Koch asked Engineer Tim Fife if the owners would need to come to Public Works to drop the speed limit from 45 miles per hour to 35 miles per hour. Mr. Fife said anyone can petition or make a request of our department to change the speed limit. It doesn't have to be the Planning Department. We go through a process of looking at

COMMISSIONERS RECORD 48
FRANKLIN COUNTY
Commissioners' Proceeding for December 17, 2007

existing speeds, traffic accidents, how far from the property it is, and then we make a recommendation to the Board about whether it needs to be changed or not changed.

Mr. Koch asked, would that be a public hearing process to change the speed limit?

Mr. Fife said yes, any changes would have to be done through an ordinance.

Ms. Johnson said she requested several years ago that the speed limit be lowered to 35 miles per hour but was told it was an arterial.

Motion – Mrs. Corkrum: Mr. Chairman, I would move that we deny the appeal request and reaffirm the Planning Commission's positive recommendation and approval of Conditional Use Permit application CUP 2007-15, subject to the six findings of fact and nine conditions of approval. Second by Mr. Miller. 3:0 vote in favor. This is Resolution 2007-655.

Public Meeting: Zone Change ZC 2007-03 to change the zoning classification on approximately 65.8 acres currently zoned Residential Suburban 40,000 (RS-40), a minimum lot size zone of approximately one acre. The rezone involves changing the 65.8 acres from RS-40 to Residential Suburban 20,000 (RS-20), a minimum lot size zone of approximately 1/2 acre. The land is located within the City of Connell's Urban Growth Boundary. Applicant is Bill Bennett.

Public Meeting convened at 10:54 am. Present: Commissioners Koch, Corkrum and Miller; County Administrator Fred Bowen; Planning Director Jerrod MacPherson; Assistant Director Greg Wendt; and Clerk to the Board Mary Withers. Present in audience: Planner Jeremy Underwood and Dave Piovesan.

Mr. Wendt reviewed the information on the Action Summary (Exhibit 9).

Mr. MacPherson showed a copy of the aerial photograph with zoning overlay on the screen. He showed a copy of another zoning map which includes lines representing where drains are located. He said any subdividing of this property would require the applicant/developer to work with the South Columbia Basin Irrigation District (SCBID) to figure out what to do with those drains, whether they can be abandoned, rerouted, or something else. If they can't, they can't. It is not relevant to the rezone hearing but we

COMMISSIONERS RECORD 48
FRANKLIN COUNTY
Commissioners' Proceeding for December 17, 2007

wanted people to be aware of it. Mr. MacPherson said there is a process where they can have the drains evaluated. SCBID is willing to actually do the process. He was told by SCBID director Shannon McDaniel that the drains were put in by a landowner at some point in time through a request of the United States Bureau of Reclamation.

An aerial photograph of the site was shown to get an idea of what crops are in place.

Mr. Koch thinks the drains were put in like a foundation drain. They're perforated and they draw liquid from that field and take it out so moving the drains to the outside of the field wouldn't benefit the drain system. Mr. MacPherson said they would have to do something. It is really an engineering issue for the subdivision design. We felt it was important that everyone be aware going in that they're there. The request of the rezone itself is consistent with the comp plan of the City of Connell and consistent with our regulations so we recommended approval to the Planning Commission and they forwarded it on with inclusion of the drain issue.

Mr. Wendt said the City of Connell did supply us a letter stating they are willing to supply water out of the city limits into the urban growth boundary.

Motion – Mr. Miller: Mr. Chairman, I move we grant approval of Zone Change application ZC 2007-03 subject to the five findings of fact. Second by Mrs. Corkrum. 3:0 vote in favor. This is Ordinance 12-2007 (Exhibit 10).

Recessed at 11:04 am.

Reconvened at 11:11 am.

COUNTY ADMINISTRATOR (continuing)

Sheriff's Deputies Laptop Upgrade

Mr. Bowen said he wanted to make sure the Board understood about a 2008 budget item that was considered earlier for an upgrade to the Sheriff's Deputies laptop computers that would save time for Sheriff's deputies and for the Information Services Department. Mrs. Corkrum said she had not realized the Board had approved the upgrade. Mr. Bowen said cost will go on every year, not be a one-time expense.

Mr. Koch said that's why he felt we disallowed it. Mr. Bowen said it was plugged into

COMMISSIONERS RECORD 48
FRANKLIN COUNTY
Commissioners' Proceeding for December 17, 2007

the budget. It's an additional \$24,208 a year every year to do what tentatively was put there. He said if the Board wants to move that \$24,000 out of the IS budget and keep it in capital outlay and put it in a capital contingency line item, then the \$24,000 will be available for other computer uses as they arise.

It was determined that the amount of work would be approximately 25 hours a year at a cost of \$1000 an hour. Mr. Koch said that's why he felt we disagreed with the request. Mrs. Corkrum said she thought we did, too. Mrs. Corkrum said it's a convenience for everybody. The deputies can bring their laptop in for the work instead.

Both Mr. Koch and Mrs. Corkrum felt it was not allowed because of the cost. Mr. Bowen said we'll put the funds in Contingency in a Capital line item.

Interagency Agreement between Franklin County and CAC for offender re-entry services

Mr. Bowen said the agreement is pretty straightforward. Mr. Koch said it's basically a pass-through agreement. Mrs. Corkrum felt the same. Mr. Miller agreed.

Motion – Mr. Miller: Mr. Chairman, I move that we accept the resolution, Interagency Agreement between Franklin County and Community Action Committee for offender re-entry services in an amount not to exceed \$1600. Second by Mrs. Corkrum. 3:0 vote in favor. This is Resolution 2007-656.

Adjourned at 11:20 am.

COMMISSIONERS RECORD 48
FRANKLIN COUNTY
Commissioners' Proceeding for December 17, 2007

There being no further business, the Franklin County Board of Commissioners meeting was adjourned until December 19, 2007.

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON

Chairman

Chairman Pro Tem

Member

Attest:

Clerk to the Board

Approved and signed December 31, 2007.