

COMMISSIONERS RECORD 50
FRANKLIN COUNTY
Commissioners' Proceeding for April 29, 2009

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

Mr. Bowen was absent at the beginning of the meeting on county business.

OFFICE BUSINESS

Secretary Patricia Shults met with the Board. Present in audience: Lauri Sherfey, Tim Waters and Tri-City Herald Reporter Joe Chapman.

Bid Opening for Printing of Franklin County Legal Notices

Bid opening convened at 9:02 am. Present: Commissioners Miller and Peck; Secretary Patricia Shults; and Clerk to the Board Mary Withers. Present in audience: Lauri Sherfey, Tim Waters and Joe Chapman.

Two bids were received.

Franklin County Graphic.

\$8.50 per column inch on 6 point solid type. Postage statement was included. Saturation circulation of 2929.

Tri-City Herald.

Column inch rate first insertion including on-line, \$17.21 Monday through Friday, \$17.66 Saturday through Sunday, column inch rate additional insertions \$15.47 Monday through Friday and \$15.81 Saturday through Sunday. Circulation is 40,071 daily and 42,151 on Sunday. The bid includes placement of all legal notices in Tri-City Herald's on-line marketplace. For the six months ending February 20, 2009, total page views to the on-line marketplace were 375,309.

Mr. Miller asked that Mr. Bowen review the bids. He said there is quite a difference in the bids in price range but also in circulation.

Consent Agenda

Motion - Mr. Peck: I move for approval of the consent agenda for April 29, 2009, excepting item 2 on the Benton Franklin Fair and Rodeo to be discussed later this morning as a separate item:

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1. Approval of **Resolution 2009-161** reappointing Jan Dorman to serve on the Franklin County Board of Equalization with said term expiring April 30, 2012.
2. Approval of **Resolution 2009-162** for the Benton-Franklin Fair & Rodeo 2009 Sponsorship Agreement between Franklin County and the Benton-Franklin Fair Association for the year 2009 in the amount of \$10,000 and authorizing Chairman to sign the Agreement on behalf of the Board.
3. Approval of **Resolution 2009-163** authorizing the Chairman to sign the Business Associate Agreement between Washington Counties Insurance Pool and Franklin County, with an effective date of April 10, 2009.

Second by Mr. Miller.

Mr. Miller said the fair sponsorship agreement is generally what we've been doing. It is the agreement with Benton-Franklin Fair and Rodeo that we pay them \$10,000 for the sponsorship. It is the same amount as last year. The contract has been renewed annually.

Mr. Peck said he read in the Tri-City Herald regarding discussions about possible changes in ownership at the fairgrounds and the change in the board and operating practices. He asked do we know if any of those changes have taken place since last year's agreement or are set to take place before this one expires? Mr. Miller is not sure but he does not think any of that has happened at this time. He said there has been an agreement because we have some assets at the fairgrounds and we keep them there.

Mr. Peck asked about the tickets distributed to Franklin County through the agreement. Mr. Miller said the commissioners do have a public appearance responsibility during the fair.

Motion – Mr. Peck: I would amend my motion as presently on the table to reintroduce item 2 and now moving approval for the entire consent agenda as presented. Second by Mr. Miller. 2:0 vote in favor.

WSU EXTENSION

WSU Extension Director Lauri Sherfey and Ag Agent/Educator Tim Waters met with the Board. Present in audience: Joe Chapman.

Budget Reductions

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Ms. Sherfey said the Extension Office staff met and determined what could be cut away from the budget, deciding we would be able to pick up some things with grant monies that previously had been picked up by the county. She needs to talk to two funders to say we're going to be doing this and making sure they're all right with it. The two fund sources are the Bill and Melinda Gates Foundation Grant and Schools at Washington. She asked if she should contact them at this time.

Mr. Miller said the budget changes are still in a discussion stage. We appreciate your information. He told her she can talk to Mr. Bowen.

Update on Commercial Vegetables Program Area

Mr. Waters will be continuing with some of the programs established in previous years including variety testing of onions and watermelons. He explained what the variety testing involves.

Mr. Peck talked about media exposure of agricultural issues in magazines and newspapers. Mr. Waters said it is important to portray the good that agriculture does for the community.

Mr. Bowen joined the meeting.

Mr. Waters does a lot of insect control trials in vegetable crops. He works with researchers at the Washington State Potato Commission.

Mr. Waters described a seed lot trial that occurs at the WSU farm in Othello.

Mr. Waters also works with local organizations for their annual meetings, particularly on the educational portions.

The International Carrot Conference will be hosted here in 2010. The carrot industry in Washington is less than 10,000 acres but we're number two in carrot production in the U.S.

Mr. Waters will be helping the Greater Pasco Area Chamber of Commerce put the Farm Bureau program together for the coming year.

Mr. Sherfey said Tim Waters just received his Ph.D.

Recessed at 9:25 am.

Reconvened at 9:30 am.

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PLANNING AND BUILDING DEPARTMENT

Planning Director Jerrod MacPherson and Assistant Director Greg Wendt met with the Board. Present in audience: Joe Chapman and Dan McKinney.

Public Meeting: Conditional Use Permit CUP 2009-01, Conditional Use Permit application for US Cellular to construct a new 60' high self-supporting flagpole-type communication tower and associated 12' x 24' equipment building in the C-2 Zoning District.

Public Meeting convened at 9:31 am. Present: Commissioners Miller and Peck; County Administrator Fred Bowen; Planning Director Jerrod MacPherson; Assistant Director Greg Wendt; and Clerk to the Board Mary Withers. Present in audience: Joe Chapman and Dan McKinney.

Mr. Wendt reviewed the information on the Action Summary (Exhibit 1). He noted the Action Summary says there are 16 Conditions of Approval but there are actually 17 Conditions of Approval.

Mr. MacPherson showed an aerial photograph with parcel overlay on the screen. He showed a copy of the proposed site plan submitted by the applicant. He showed some photos with the proposed cell tower site superimposed.

Mr. McKinney responded to Mr. Peck's question about perception of height of a power pole compared to the proposed cell tower based on the photo.

Mr. McKinney said the tower would be placed 70 feet from the property line.

Mr. Wendt said the antennas will be concealed internally within the tower.

The county requires co-locations on cell towers. In this case, this cell tower would be constructed to accommodate those co-locations.

Mr. Wendt said we worked with the applicant to try to find a co-location for their facility such as a school structure but none of the co-location areas were possible.

Mr. Wendt said no one against the application attended the Planning Commission meeting. The owner and the applicant were in favor. We did not receive any phone calls or any written documentation. There were 65 notices sent to people within 500 feet of the property. We sent copies of the pictures as well.

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Mr. Wendt said within the commercial zoning, the applicant had the ability to go up to 100 feet. In this instance, the underlying comprehensive plan for this property is residential. The city has it designated for low density residential. With that, the applicant agreed to keep the tower at a smaller height and comply with the residential height standards for west Pasco rather than our commercial standards since the long-range plan is for this property to someday transform back into a residential piece of ground.

Mr. Peck asked if another site was identified that was more desirable but not available. Mr. Wendt said he did look at other sites.

Mr. Peck asked Mr. McKinney if there was another site that was functionally more desirable but not available. Mr. McKinney said there was an equivalently desirable site at a school but the school location was not available.

Mr. Wendt said the Planning Commission talked about co-location. Condition of Approval #7 includes that a co-locator could work with the landowner to potentially rent one of the storage facilities for the storage of their equipment, running wires underground, rather than be limited to the fenced area.

Mr. Wendt reviewed other Conditions of Approval.

Mr. Peck asked are you aware of any discussion of any kind of RF interference or anything from these facilities? Mr. McKinney said they operate at different frequencies so it's very difficult for them to actually interfere. The planners told the Board that we have an interference compliance agreement in place that the applicant would have to sign and acknowledge.

Mr. MacPherson said Mr. Koch read the packet and did not have any objections to the proposed tower, especially being located on the west side of Road 68 and having existing power poles in place. Mr. Wendt said we also talked with City of Pasco because it is in their urban growth area. They did not have any objections to it.

Motion – Mr. Peck: I would move we grant approval to Conditional Use Permit application CUP 2009-01 subject to the six Findings of Fact and 17 Conditions of Approval. Second by Mr. Miller. 2:0 vote in favor. This is Resolution 2009-164.

Mr. McKinney left the meeting.

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Mr. Peck asked about notification requirements, since visual uses affect property further than other uses. He also asked about lights on the cell tower. Mr. MacPherson said the county notifies property owners within 500 feet but is only required to notify at 300 feet. He believes the height of the cell tower does not require lights.

PUBLIC WORKS

Engineer Tim Fife met with the Board. Present in audience: Joe Chapman and Chief Civil Deputy Prosecutor Ryan Verhulp.

Resolution: Interagency Agreement between Franklin County and the Washington State Department of Transportation (WSDOT)

Mr. Fife asked for approval of an agreement to do aerial photos as part of the Franklin County Regional Information System (FRIS). At this time FRIS is comprised of Franklin PUD, South Columbia Basin Irrigation District (SCBID) and Franklin County. Franklin County acts as the lead with the Public Works GIS person acting as the FRIS manager. Because we all had common interests, we joined together so we could share the cost of aerial photos and other work to reduce everyone's costs and provide the product. We all get the accuracy to a level that everyone needs. The City of Pasco is also participating. This project was primarily flying the urban area and a little bit of Walla Walla County in the Burbank area, for which the irrigation district is paying.

All the agencies have approved to pay their share. The cost is already in the Franklin County budget. The flight was done before leaves came out on the trees for greater clarity.

Mr. Peck asked Mr. Verhulp what "approved as to form" means when he signs it. Mr. Verhulp said it can mean different things. He said one meaning can be that it is a form that is consistent with the standard form contracts you as a Board have approved. A second meaning is that the form is consistent with law, essentially that the form complies with law.

Mr. Peck said when he sees "Approved as to form," he thinks the contract generally contains clauses and provisions of a contract of this nature and the organization and language are consistent with normal practices, but it says nothing about the content

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and whether or not it is or is not good for the county. Mr. Verhulp said that is correct, it can be a distinction at times. He gave an example.

Mr. Peck said he doesn't mean to suggest that Mr. Verhulp's reviews aren't appreciated and of great value. He just doesn't want to interpret that they mean more than they actually do because, as has become my habit when I get presented with multi-page agreements and it says "reviewed as to form," I'm not inclined to approve or sign until I've read them. I think I have an obligation to do that. I don't like the idea of taking time out of Board meetings to read and consider these things. Is this something that is of a time urgency? Mr. Fife said no. He said the same agreement has been signed in the past. It has worked well and we haven't had any issues with it. Mr. Peck said my objection is largely based on principle, to do the best for the county.

Mr. Bowen will make copies for the Board to review and, unless there is an objection, it will be placed on the consent agenda. The Board agreed.

Resolution: CRP Phase 1: Approval of Project Agreement for RAP Construction proposal, Project #1106-01, Dent Road M.P. 00.00 to 03.60, County Road Administration Board (CRABoard) and Franklin County (Road 100 Extension Project)

Mr. Fife asked for approval of a contract bringing the total dollar amount authorized from \$2.4 million to the total amount we asked for, which is \$2.6 million. That is the only change. It is the fourth supplement. The additional amount was just authorized by the CRABoard as part of its biennial appropriation.

The contract includes the whole Road 100 project, not just a part.

Mr. Verhulp answered Mr. Miller's question about imminent domain actions.

Mr. Fife answered Mr. Miller's questions about the project timeline. He answered Mr. Peck's question about the funding process.

Motion – Mr. Peck: I would move approval of CRP 593 Phase 1 Project Agreement for Dent Road with the County Road Administration Board and Franklin County. Second by Mr. Miller. 2:0 vote in favor. This is Resolution 2009-165.

Joint Resolution: Approval for Franklin County Engineer to provide engineering services to Benton County as detailed in the attached interlocal agreement

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Mr. Miller asked to put the contract on the consent agenda on Monday.

Pasco-Kahlotus Road (PK Highway)

A hole was created in the PK Highway by a badger or something else. We had to dig up the area. It will be patched today. The road is posted and signed.

Contracts and Resolutions

Draft contracts/resolutions will be sent to the Board for review prior to presentation at the Board meeting.

Refurbishing county vehicles

Mr. Fife answered Mr. Peck's questions about refurbishing county vehicles.

PROSECUTOR

Chief Civil Deputy Prosecutor Ryan Verhulp met with the Board. Present in audience: Joe Chapman.

Executive Session at 10:20 am regarding potential litigation expected to last up to 15 minutes based on RCW 42.30.110(1)(i). Mr. Chapman left the meeting.

Open Session at 10:37 am.

COUNTY ADMINISTRATOR

County Administrator Fred Bowen and Chief Civil Deputy Prosecutor Ryan Verhulp met with the Board. Present in audience: Joe Chapman.

City of Mesa: Large judgment against Mesa regarding public records

Mr. Verhulp said some meetings have been held regarding a large judgment against the City of Mesa involving attorneys, the mayor, Prosecutor Steve Lowe, Mr. Verhulp, Mr. Bowen and Commissioner Koch. The city is having difficulty paying the judgment. The attorneys representing the City of Mesa wanted to provide notice to the county and also asked if the county could render any assistance, whether legal, financial, or advocating for some legislative change in terms of public records act penalties and impacts those penalties can have on small jurisdictions.

Some of the legal options are subject to legal deadlines. Mesa was hoping to get some opinion from the county regarding what if any assistance the county can lend by next week. Mr. Verhulp said some impacts are that disincorporation could result in

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Franklin County having to take over roads, sewer systems, and water systems, as well as complications of any bankruptcy could have similar type of effects.

Mr. Miller said he believes all three commissioners should have been involved. He had no idea of the meeting. Mr. Verhulp said the people involved asked that the commissioner whose district encompasses the City of Mesa be a part of that initial meeting and then once that meeting was held, all commissioners will be involved.

Mr. Verhulp left the meeting.

Executive Session at 10:45 am regarding contract negotiations expected to last 15 minutes based on RCW 42.30.140(4). Mr. Chapman left the meeting.

Executive Session continued at 11:00 am expected to last 10 minutes. Those waiting outside were notified.

Executive Session continued at 11:10 am expected to last 10 minutes. Those waiting outside were notified.

Executive Session continued at 11:20 am expected to last 15 minutes. Those waiting outside were notified.

Open Session at 11:36 am.

VOUCHERS/WARRANTS

Motion – Mr. Peck: I move approval of Franklin County vouchers for April 29, 2009, total amount of \$2217.60: Current Expense warrants 16310 and 16311 for \$2217.60.

Second by Mr. Miller. 2:0 vote in favor. (Exhibit 2)

Motion – Mr. Peck: I move approval of April 29, 2009, vouchers in the following amounts: Salary Clearing Payroll warrants 48282 through 28380 for \$206,817.17; warrants 48381 through 48392 for \$257,059.12; and Direct Deposit for \$316,713.56; for a total amount of \$780,589.85;

Emergency Management payroll warrants 16353 through 16364 for \$4145.12; warrants 16365 through 16374 for \$5540.32; and Direct Deposit for \$7734.88; for a total amount of \$17,420.32; and

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Irrigation payroll warrants 16375 through 16387 for \$9237.64; and warrants 16388 through 16395 for \$5008.22; for a total amount of \$14,245.86. Second by Mr. Miller. 2:0 vote in favor. (Exhibit 3)

Motion – Mr. Peck: I move approval of County Road Fund payroll for the period ending 4/30/09 in the amount of \$73,782.15. Second by Mr. Miller. 2:0 vote in favor.

Motion – Mr. Peck: I move approval of Motor Vehicle Fund payroll for the period ending 4/30/09 in the amount of \$10,884.12. Second by Mr. Miller. 2:0 vote in favor.

MINUTES

Motion – Mr. Peck: I move approval of Franklin County Commissioner Proceeding minutes for April 27, 2009. Second by Mr. Miller. 2:0 vote in favor.

Adjourned at 11:45 am.

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There being no further business, the Franklin County Board of Commissioners meeting was adjourned until May 4, 2009.

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON

Chairman

Chairman Pro Tem

Member

Attest:

Clerk to the Board

Approved and signed May 11, 2009.