

COMMISSIONERS RECORD 50
FRANKLIN COUNTY
Commissioners' Proceeding for July 1, 2009

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

The Board meeting opened at 9:31 am with Commissioners Miller and Koch present.

OFFICE BUSINESS

Secretary Patricia Shults met with the Board. Present in audience: Tri-City Herald Reporter Dalina Castellanos.

Vouchers/Warrants

Motion - Mr. Koch: I move approval for 2009 vouchers, fund expenditures in the bottom line total amount of \$145,288.39, and allow Commissioner Peck's signature on his arrival: Franklin County Public Facilities Construction Fund warrant 19135 for \$12,565.36; Election Equipment Revolving warrant 19136 for \$245.04; Trial Court Improvement Fund warrant 19142 for \$780.91; Auditor O&M warrants 19143 through 19144 for \$299.43; Current Expense warrants 19145 through 19181 for \$18,078.52; Election Equipment Revolving warrant 19182 for \$104.00; Current Expense warrants 19225 through 19262 for \$112,816.41; Sheriff/Sex Offender Grant warrant 19263 for \$74.00; Treasurer O&M warrant 19264 for \$140.59; and Veteran's Assistance warrant 19265 for \$184.13. Second by Mr. Miller. 2:0 vote in favor. (Exhibit 1)

Mr. Peck joined the meeting at 9:35 am, stating he had been in an unexpected meeting in the Assessor's office.

Consent Agenda

Motion - Mr. Koch: Mr. Chairman, I would move for approval of the consent agenda for July 1, 2009, as presented:

1. Approval of **Resolution 2009-283** 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 Knowledge Counseling, providing chemical dependency assessment and treatment to youth as

COMMISSIONERS RECORD 50
FRANKLIN COUNTY
Commissioners' Proceeding for July 1, 2009

ordered by the Court, effective through June 30, 2011. (Exhibit 2: Information sheet.)

2. Approval of **Resolution 2009-284** for the Franchise Agreement between Franklin County and Sanderson Heights, LLC, granting street light utility system, irrigation distribution system and fire protection system franchise right-of-way on a nonexclusive basis to operate, maintain, remove, reattach, reinstall, replace, and repair existing facilities within the Franchise Area.
3. Approval of **Resolution 2009-285** for the Interagency Agreement between Pasco School District No. 1 and Franklin County, by and for the Franklin County Sheriff's Office, effective August 2009 through June 2011, and authorizing the Chairman to sign said agreement on behalf of the Board.
4. Approval of **Resolution 2009-286** for the Interlocal Cooperative Agreement between the City of Pasco and Franklin County for disbursal of rural county funds, pursuant to RCW 82.14.370, to fund the completion of the East "A" Street right-of-way acquisition project, and authorizing the Chairman to sign said agreement on behalf of the Board.
5. Approval of **joint Resolution 2009-287** in the matter of the request for signature from the Chairman of the Boards of Benton and Franklin County Commissioners on the contract between the Juvenile Justice Center and the Pasco School District to provide a probation counselor in Pasco High School, effective July 1, 2009, and terminating on June 30, 2010. (Exhibit 3: Information sheet.)
6. Approval of **joint Resolution 2009-288** in the matter of the request for signature from the Chairman of the Boards of Benton and Franklin County Commissioners on the contract between the Juvenile Justice Center and the Pasco School District to provide a probation counselor in Chiawana High School, effective July 1, 2009, and terminating on June 30, 2010. (Exhibit 4: Information sheet.)

Second by Mr. Peck. 3:0 vote in favor.

OFFICE OF PUBLIC DEFENSE

Indigent Defense Coordinator Eric Hsu met with the Board.

Public Hearing: To take testimony for and against adoption of an Indigent Defense

Ordinance

COMMISSIONERS RECORD 50
FRANKLIN COUNTY
Commissioners' Proceeding for July 1, 2009

Public Hearing convened at 9:47 am. Present: Commissioners Miller, Koch and Peck; County Administrator Fred Bowen; Indigent Defense Coordinator Eric Hsu; and Clerk to the Board Mary Withers. Present in audience: Dalina Castellanos.

Mr. Hsu requested that proposed Ordinance 7-2009 be passed and incorporated into the county's ordinances as required by RCW 10.101. He summarized the ordinance. It is required so that basically every county and city that provides indigent defense services in Washington agrees to provide it under certain standards. The ordinance goes through each of the standards that are required by the statute including how attorneys are selected, the people that have any input in the selection of attorneys and people who are not allowed to have input (for example, the prosecutor and police officers and/or sheriff who are involved). It states contracts will be used and they will not be assignable. It includes qualifications of attorneys. It also discusses a framework for a complaint process, directing the Office of Public Defense to come up with a concrete framework for receiving and addressing complaints with certain parameters.

Mr. Miller asked three times if anyone in the audience would like to speak as a proponent. There was no response.

Mr. Miller asked three times if anyone in the audience would like to speak against the ordinance. There was no response.

Mr. Peck said we recently put contracts in place with defense attorneys. He asked if the contracts are consistent with the ordinance. Mr. Hsu said absolutely.

Motion – Mr. Peck: I would move approval of Ordinance Number 7-2009 in the matter of establishing Franklin County indigent defense ordinance. Second by Mr. Koch. 3:0 vote in favor. (Exhibit 5)

COUNTY ADMINISTRATOR

County Administrator Fred Bowen met with the Board. Present in audience: Dalina Castellanos.

Cell Phone Policy

The Board has been reviewing two different versions of a proposed cell phone policy.

COMMISSIONERS RECORD 50
FRANKLIN COUNTY
Commissioners' Proceeding for July 1, 2009

Mr. Koch said I am totally against buying anybody phones. I don't think the county, especially in today's financial position, needs to buy phones for anybody. I don't have a problem helping people in support of their phone bill if there's county phone and data usage but I don't want to get in the policy of purchasing phones.

Mr. Bowen said the policy was drafted so it could go either way. If the county chose to not own the phones or the Blackberry type of equipment, that would be taken out of the IS budget because the IS budget would control any phones or any cellular devices that were purchased. The reason is that there may be some situations that come up that it would be better if it was a county-owned piece of equipment versus personally owned. He thinks the policy is written well enough that the Board would control that also.

Mr. Peck asked Mr. Koch his feelings if an employee was required to be available after hours on short notice and that person had neither the desire nor the financial ability to buy a phone. Mr. Koch said I guess I would need a scenario as to who would be required to have an after-hour phone besides the sheriffs.

Mr. Peck said let me phrase it differently. Let's assume an individual that it's widely accepted it's in the best interests of the county for that person to be available on short notice and after hours and they choose not to purchase a phone with their own money, should they be compelled to? Should they be required to buy a phone to be available after hours? I'm not trying to debate but just look at the other side of the issue. Like you, I'm not real keen on buying a bunch of equipment that will probably be out of date in 90 days. There's also the question of people who have an existing phone that perhaps isn't compatible with the county's technology and therefore for them to be available after hours would require them to purchase a second phone that they don't need, one that is compatible with the county system. Would we compel them to do that or expect them to do that?

Mr. Koch said this has come up quite awhile ago. Mr. Peck said I agree; it's not a black and white issue. Mr. Koch said I'm just trying to think it out with you here. Mr. Peck said like you, I tend to not want to buy equipment, but I worry that we may be unfairly disadvantaging some people by requiring them to buy their own.

COMMISSIONERS RECORD 50
FRANKLIN COUNTY
Commissioners' Proceeding for July 1, 2009

Mr. Miller asked have we purchased any phones for employees now? Mr. Bowen said no. Mr. Miller asked if that circumstance has come up, knowing it may come up later? Mr. Bowen said the county did purchase phones in the very beginning but the conflict we had was that everyone would end up making a personal call and the state auditor had issue with that. That's when it was decided that all county-owned phones – I don't believe there are any left; that was 10 or 12 years ago -- were basically eliminated and that people could purchase their own phone and receive reimbursement.

Mr. Peck asked Mr. Miller and Mr. Koch if they both have Blackberry's that are personally owned and purchased? Mr. Miller said yes. Mr. Koch said yes. He said he pays for his own except for receiving \$30 a month for the phone portion. The data is my own, even though it's 99% county use. Mr. Peck said so you bought your own phone and you paid most of the fees and charges yourself? Mr. Koch said exactly. Mr. Peck said I bought my own phone and I pay 100% of the fees and charges and I use it a lot for county business. It's not a huge deal. Part of what I'm trying to get to here is we've got probably a dozen different scenarios people are operating under.

Chief Civil Deputy Prosecutor Ryan Verhulp joined the audience.

Mr. Koch said exactly, there is inconsistency. Because it's not a policy, there are some phone charges being charged to the county that are obviously a lot of personal phone use, a lot of text messaging back and forth, and that's being charged to the county now and they can do it because there is no policy stating any different.

Mr. Peck said thinking out loud, I know of organizations that cover a portion of cell phone fees and monthly charges and some of those do provide equipment and some don't. One organization provides phones or reimbursement for phones for those individuals who are not just desired that they be available after hours, it's expected as part of their function. I'm wondering if it's appropriate to provide, instead of purchasing a phone, a once every four years flat rate amount to contribute towards the purchase of a phone.

Mr. Koch said a stipend.

COMMISSIONERS RECORD 50
FRANKLIN COUNTY
Commissioners' Proceeding for July 1, 2009

Mr. Peck said a stipend, not an exorbitant amount, not enough that it would be enough necessarily to buy a phone outright, but it would acknowledge that someone is purchasing a phone and using and maintaining it for county benefit at least in part. The reason I bring it up is on the basis of the principle, if the principle justifies paying a portion of their monthly fees, why doesn't it justify paying a portion of the acquisition cost of the equipment? The principle is exactly the same.

Mr. Koch said that's the parts of these two versions of the policy is who decides on who is eligible or needs the after-hour contact?

Mr. Peck said my first thought is it is probably people at the department head level plus one, because everybody needs a backup for every day and when the department head is out of town. I can see that decision being made at the department head or the elected official level.

Mr. Koch said it will be decided at the budget level unless you put a stipulation in the policy that it is the decision of the elected official or department head plus one. Other than that, I think the policy looks good. I think it gets us to a financial position of up to \$30 for the phone system.

Mr. Bowen said there are a couple different plans listed. Normal usage is \$30 per phone. High usage is \$50 per phone. The data ranges from \$50 to \$80. This particular section of the policy is obviously open for changes.

Mr. Koch asked Mr. Peck if his I-Phone service is charged in two bills, one for data and one for phone. Mr. Peck said the short answer is they are separate. The only carrier for I-Phone right now is AT&T.

Mr. Koch said one of the challenges I'm finding is it doesn't appear the county's internet system is compatible with I-Phone. He is unclear about how to overcome the problem. Mr. Bowen said we would be required to add an additional server for the I-Phone at a cost of approximately \$5000. The county's system now is set up pretty much only for Blackberry's. Anything else would require a new server. There are other systems coming on the market besides I-Phones. He wouldn't say it washes out but with the Blackberry we could have up to 30 phones at a cost of \$100 per phone in order to

COMMISSIONERS RECORD 50
FRANKLIN COUNTY
Commissioners' Proceeding for July 1, 2009

work with our system, where if we use the new server that would serve anything other than a Blackberry, there is no \$100 hookup charge. He is not sure of the complete number but as technology moves on and new products come out, we would switch over to the other. He believes it would probably be in the county's best interest to purchase the new server and have it put in. It's not a wash but if it's \$3000 for the Blackberry and it's \$5000 for the I-Phones, I think as time goes on, the new piece of equipment would probably be worth it.

Mr. Koch said I-Phones are new technology compared to Blackberry's with more applications available. They may not do more business.

Mr. Peck said there's another piece that we haven't discussed. I'm not particularly familiar with Blackberry technology but an I-phone for example if you're planning to use that phone to access your home email, that's it. You can't do multiple accounts and access, say, your county one as well. There's almost an argument for having two separate phones.

Mr. Koch said I don't need to access my home for any reason. I use the Blackberry for business. If I was not a commissioner, I wouldn't have it. I'd just have a regular phone. It gets almost zero usage during the weekend.

Mr. Peck said there's also a public records implication for using your personal phone occasionally for business. We kind of lead people into that scenario when we give them a monthly stipend to help offset the portion of their phone bill for business. There needs to be some sort of notice or policy advisory to anybody that's receiving that so that they understand when they accept this money and use that phone for public business, you're potentially opening up all the rest of your cell phone activity and records for public scrutiny.

Mr. Koch said plus the fact the auditor doesn't appreciate a company phone item to be used for personal use. In that respect, some people would have to have two phones if we purchased phones for them.

Mr. Peck said maybe I'm jumping to a conclusion that's not warranted. He asked Mr. Verhulp if someone has a personally-owned phone and they accept a stipend from the

COMMISSIONERS RECORD 50
FRANKLIN COUNTY
Commissioners' Proceeding for July 1, 2009

county to partially offset the cost of fees and services for that phone, does that potentially open up their personal use of the phone under public records as well?

Mr. Verhulp said yes, not only because of the funds issue but just because of its being used for a public purpose.

Mr. Peck asked commingled activity?

Mr. Verhulp said yes. That same idea extends to if you send email from your computer here at work to your computer at home. There is case law that suggests then that opens up your computer at home and those files that are in it as a public record.

Mr. Miller asked if you did not receive a stipend on the phone and you still used it as business and communicated at home or elsewhere, it would still be open. Mr. Peck said it would be the same thing. Mr. Verhulp said I agree.

The Board decided they need to think about the policy a little further before adopting it. Mr. Miller said it's not an easy decision.

Mr. Peck said for reasons of public record access, I'm inclined to have a totally separate phone that is 100% county business, nothing else, but I'm not real keen on going out and buying a Blackberry and paying the service fee on it to make myself available to the county and people after hours. The notion of a partial payment, while I understand the desire to minimize costs, for people in that situation, how do we justify asking them to subsidize the cost of that phone and the service to make themselves available when they are I think legitimately attempting to keep their personal activities cleanly separated from county business? It's easy to look at it in reverse and assume somebody already has a phone; should we subsidize them if they're willing to use that for county business? Sure, I think that's logical. It happens in most corporations today. But when you flip it the other way around then it's less clear. What do you tell that employee who doesn't want to commingle their personal private lives with their county business?

Mr. Koch said just like us, I guess we are expected to be at beck and call 24 hours a day but I was never told that. I don't know if there's a policy written that way or not. Basically the reason I got this particular phone was because I used to pack laptop computers with me when I went out of town to keep up with the county business. It cost

COMMISSIONERS RECORD 50
FRANKLIN COUNTY
Commissioners' Proceeding for July 1, 2009

so much to tie into the internet at airports or hotels that it didn't make sense. There have been times when Mr. Bowen and I have been out that we needed to be in contact with the office while we were gone.

Interlocal Cooperation Agreement between Franklin County and the Benton-Franklin Council of Governments (BFCoG) for the Joint Administration and Management of the CDBG Community Investment Fund Grant

Mr. Bowen asked for approval of the agreement. It will allow BFCoG to receive payments.

Motion – Mr. Chairman, I would move the approval of Resolution 2009-289 regarding the Interlocal Cooperative Agreement between Franklin County and the Benton-Franklin Council of Governments for the Joint Administration and Management of the Community Development Block Grant, Community Investment Fund Grant, for the Clark Addition Water System Improvement Project. Second by Mr. Peck. 3:0 vote in favor.

PROSECUTOR

Chief Civil Deputy Prosecutor Ryan Verhulp met with the Board. Present in audience: Dalina Castellanos, Dispatch Superintendent Ed Bush, Dan Werr from Information Services Department, Engineer Tim Fife and Planning Director Jerrod MacPherson.

Crime Insurance Policy

The Board reviewed a quote from Travelers Insurance totaling about \$5600 for the full range of coverage. The Board also reviewed the quote from Zurich, the current insurer, with a premium cost of slightly over \$4000. Mr. Verhulp said the Travelers Insurance premium would be about \$5088 because the county would not use the full range of coverage. The full range of coverage through the current insurer would be about \$6000. Mr. Verhulp told the Board the differences between the two offers. Travelers would not provide him a copy of their policy for review. He feels the current insurer offers a broader, fuller range of coverage than Travelers.

Mr. Peck said his recollection is that the second quote was obtained to do some due diligence and to get a sense of the market prices since the existing policy had been

COMMISSIONERS RECORD 50
FRANKLIN COUNTY
Commissioners' Proceeding for July 1, 2009

renewed so many times over the years. Mr. Koch agreed. Mr. Peck said it sounds like we're very much in the market price range and the difference is marginal. He noted the commission for the current insurer is 15% and it is 20% for the new bid. He said for him the only remaining discussion is whether or not the limits and deductibles are still appropriate because it looks like they're providing reasonable value given the market.

Mr. Verhulp said we have had no claims or occurrences in the past to his knowledge. He was told the Risk Pool said counties have been accepting about \$1 million of employee theft coverage. In his opinion, he thinks Franklin County could choose the lower limit. He has obtained information from the various county offices which handle funds that they have security and checks and balances measures in place to limit some of the risk and exposure. An additional security measure you have done is put in the secured perimeter and that reduces the exposure to armed robbery and things like that. That would be another reason to consider not going with a significantly higher limit of insurance in regards to our inside the premises coverage and so forth.

Current coverage amounts and deductible amounts were reviewed.

The Board decided to renew Commercial Crime Insurance with Conover Insurance/Zurich and declined the higher premium quote from Traveler's Insurance. As part of the renewal, the Board increased the employee Theft Coverage to a \$500,000 limit with a \$5000 deductible, increased the Inside the Premises Coverage to \$300,000 with a \$3000 deductible, and increased the Outside the Premises Coverage to \$300,000 with a \$3000 deductible.

Mr. Koch asked are we comfortable with not having computer fraud in today's technology? He asked Mr. Verhulp if he had any suggestions. Mr. Verhulp said that type of coverage pays for loss of securities or money to fraudulently cause a transfer of monies from inside Franklin County to somewhere else. He said the Treasurer limits access to three employees including herself. They all have secured passwords. They have to enter it into their accounting system and also into the bank's system and any transfers are then later reconciled to try and monitor fraudulent actions to the best level it can be done.

COMMISSIONERS RECORD 50
FRANKLIN COUNTY
Commissioners' Proceeding for July 1, 2009

Mr. Verhulp said the Treasurer gives all directions to employees in writing, not orally, so there's a paper trail and a clear line of communication. Mr. Koch said okay.

Mr. Koch said I could go with those three coverages with the amounts indicated.

Motion – Mr. Peck: I move approval of county action to renew county insurance coverage with Conover Insurance of Pasco with the following changes to our coverage:

employee theft per loss should be set at \$500,000 limit with a \$5000 deductible on a quoted premium of \$3736 per year;

inside the premises theft of money and securities set at \$300,000 limit with a \$3000 deductible with an annual premium quoted at \$661; and

outside the premises coverage limit set at \$300,000, deductible of \$3000, with an annual premium quoted at \$331;

and that further we authorize the chairman to sign the appropriate documents to bind the county to this insurance coverage. Second by Mr. Koch. 3:0 vote in favor.

Adjourned at 10:39 am.

COMMISSIONERS RECORD 50
FRANKLIN COUNTY
Commissioners' Proceeding for July 1, 2009

There being no further business, the Franklin County Board of Commissioners meeting was adjourned until July 6, 2009.

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON

Chairman

Chairman Pro Tem

Member

Attest:

Clerk to the Board

Approved and signed July 6, 2009.