

**RECORD OF THE PROCEEDINGS****OKANOGAN COUNTY****JULY 8, 2019**

The Okanogan County Board of Commissioners met in regular session on July 8, 2019, with Chairman, Commissioner Jim DeTro; Vice Chairman, Commissioner Chris Branch; Member, Commissioner Andy Hover, and Laleña Johns, Clerk of the Board, present.

Tanya Craig requested an executive session with the board.

**Pledge of Allegiance**

Commissioner Hover led the pledge of allegiance.

**Motion Executive Session RCW 42.30.110 (1)(g)(f)**

Commissioner Hover moved to go into executive session at 9:10 am for 15 minutes inviting Ms. Craig Risk Manager and Human Resource Director to discuss a complaint against a public employee. All in favor, motion seconded, motion carried.

At 9:25 am the Commissioners extended executive session for another 5 minutes.

Executive Session ended at 9:30 a.m. no decisions were made.

*Discussion Well Issues*

Joe Poulin informed the commissioners that the East injection well serving the Courthouse and Jail geo thermal heating and cooling system has water coming up around the well head casing so it looks like the seal is broken. Several scenarios were discussed as possible reasons for the water problem. Commissioner DeTro did not believe it was the seal. He explained Abe Wendle drilled the wells upon the county's recommendation due to the prior contractor being unsuccessful. Water can come up and it can go down through the seal. Normally wells are not pressurized, but ours is. There is only three penetration scenarios, Commissioner Hover discussed. Mr. Poulin will make the necessary contacts. Commissioners discussed the City of Okanogan's sewer project (Hurst Construction) and wondered if something they are doing caused the problem. Joe Poulin was directed to call Ameresco and inform them of the issue.

**Motion Executive Session RCW 42.30.110 (1)(f)**

Commissioner Hover moved to go into executive session at 10:15 a.m. for 10 minutes inviting Tanya Craig Risk Manager/Human Resource Director to discuss a complaint brought against a public employee. Motion was seconded, all were in favor, motion carried.

Executive session ended at 10:25 a.m. no decisions were made.

**Motion Executive Session RCW 42.30.110 (1)(f)**

Commissioner Hover moved to go into executive session at 10:30 a.m. for ten minutes inviting Tanya Craig and Perry Huston to discuss a complaint brought against a public employee. Motion was seconded, all were in favor, motion carried.

Executive session ended at 10:40 a.m. no decisions were made.

**Review Commissioners Agenda and Consent Agenda**

Commissioners reviewed their agenda and consent agenda items.

## **Briefing Among Commissioners—Discusses Individual Weekly Meetings**

Commissioners discussed individual meetings they attended.

### **Discussion – Public Defenders Contract – Melissa McDougall**

Tanya Craig, Michael Prince

Ms. McDougall introduced Michael Prince. She explained her previous business relationship with Mr. Prince as he was her business partner for a number of years working for her business under contract with Okanogan County for indigent defense services.

In a previous meeting, Ms. McDougall asked if the board was interested in a proposal to renew the public defender contract but at that time she did not put forward a proposal. The commissioners had indicated they were interested.

Ms. McDougall said Mr. Prince is interested in joining her firm as he would provide additional support for felony cases that her firm needs. She wanted to relay this idea to see if the board was interested in considering creative solutions. In the past, she has managed with more attorneys with less experience, and less attorneys with more experience but now it is necessary for her to consider more attorneys with more experience again due to the number of felony cases and/or unusual type charges that her staff has not dealt with before. Mr. Prince is an experienced attorney and part of a firm interested in growing and putting people in Okanogan and Wenatchee. She explained how this arrangement would help with efficiencies in her office, meet case load standards, allow her to take on more felony cases rather than misdemeanor cases, and provide access to additional District Court attorneys. She would also have access to another Class A certified attorney. She would like the board to consider the costs of providing conflict council over this arrangement, especially if it doesn't cost the county additional money. Commissioner Branch said it sounds like they are trying to accomplish more with less. Ms. McDougall discussed there would be few changes needed to the current structure and could be just a business name change. She would run the firm and the partner would provide the attorney's. Commissioner Hover asked if the other firm would be the employer? It would depend on the structure. She described how the partnership would work. She cannot be a full-time administrator and take truancy ARY but now she is taking 20-25 cases in District Court, but with the way felony cases are going, she is worried about the high end cases that there is sufficient priority given to those. Standards come into play with the number of cases she can take.

A lot of her attorneys are independent contractors and not her employees, Ms. McDougall said. If she just contracted with Gravis the District Court spots could be handled by their attorneys and take the burden off of her to take on the felony cases. Finding qualified attorneys is difficult, so this partnership would help provide qualified attorneys. It is difficult getting attorney's to come here. She discussed hybrid positions and getting those filled provides efficiency. Commissioner Hover said there is one thing to be cognizant of we are a poor county. Commissioner Branch wants to believe we are giving the time and resources needed to defense services.

Ms. McDougall explained that since there is no one reviewing the cases beforehand to check indigent status to ensure the clients are actually indigent or low income and unable to pay for the defense services, there is the potential that the firm is serving people who actually have the ability to pay. Commissioners asked if she could speak to the Judges when she believes a client is actually able to pay. Ms. McDougall said it would break client attorney privilege, so she cannot tell the judge when her client drives up to court in an expensive sports car. There isn't a way to verify indigent status of clients right now. She sees our judges are very reluctant to ensure people are truly have indigent status. There are many cases like this she said. With a reviewer/verifier those clients would be thinned out thereby reducing caseloads.

If there was a way to have an independent verifier who would verify people's indigent status it would

reduce case numbers and would free up her time to continue working on the felonies. No additional attorneys would be needed if there was someone to review and verify indigent status. She said she would be fine with seven attorneys if there was someone to review the cases. If nothing changes she'll need additional attorneys.

Ms. McDougall asked if the board had any questions of Mr. Prince. Commissioner DeTro said he is in favor of the rearranging the current situation. He believes starting with this discussion is most appropriate. Commissioners appreciated Ms. McDougall discussing this with them. They do not wish to micro manage the contract. Ms. McDougall will put together a review package of the situation for commissioners' consideration.

### **Public Hearing – Purchase & Sale Agreement – Gravel Pit**

PW Maintenance Manager Gary George, Planning Director Perry Huston, Angie Hubbard, Planner

Members of the Okanogan Watch group Gina McCoy, taking notes and Katie Haven.

The audio recorder was turned on.

Commissioner DeTro opened up the hearing stating this hearing was set to hear public comment for or against the county purchasing property for a proposed gravel pit. He asked for staff report.

Director Huston stated this proposal is for a 539.92 acre property that the county would keep 149.66 acres for the pit and sell 391.26 to WDFW. This hearing is set to discuss the proposed purchase and discuss future fact finding meetings. Right now the discussion is whether or not the Board wishes to go forward with signing the purchase and sale agreement. The conditions for the purchase and sale agreement were projected and read by Director Huston. The offer and accepted purchase price is \$1,000,000 for the 539.92 acres.

If the board elects to not move forward the agreement becomes null and void. If moving forward, by motion the chairman signs as the buyer and begins the 180 day process. Are there any questions of him? Commissioner Hover said the regional director is willing to go on record stating their openness to the purchase of the remaining property not necessary for the gravel pit. If he wishes to make those statements into the record, that would be relative to the situation.

Commissioner Hover said WDFW has interest in the other portion for wildlife habitat. Commissioner DeTro stated the reason for having the study sessions is to discuss questions and answer, but this time is for testimony and comment on the purchase and sale agreement so there isn't time for Q&A.

Mr. George offered the information he prepared and went over the brief overview via overhead projector. (attached) The proposal is geared towards finding rock, every figure he has is based on a 20 foot depth for the pit itself. If WDFW doesn't buy the property the cost per ton would be \$0.63 and if they do purchase then the cost goes down to \$0.17 over the 75 year life of the pit. Mr. George provided the final bid tabulation information for all to see. He went over the rock and hauling estimates and what it would take to chip seal a road to give an example of the cost differences between locations such as Miller Pit, Central Pit, and Freel's Pit. Aerial views of the pit were shown and discussed.

Bill Tonseth owns two parcels on the South East Corner of the property. He has no objections to the county's proposal and would rather see that than another housing development like the one across the valley.

Katie Haven is a resident on McFarland Creek road about 2-3 miles from the site. She read from her prepared comment. (attached)

Mark Ryan Attorney Homeowners association given the first two were in favor of the proposal. His client is opposed to the pit due to noise, dust, increased eye sore for those looking down, negative impact on his clients property values. The CUP will need to be complied with and commissioners consider the restrictions that come out of the CUP process. These could add to the costs of the project. What guarantee is there the county won't in the future adjust or increase the time frame for scope of operation. What is to stop the county from selling to a third party in the future to another third party operator wanting to set up business.

William Stinson property owner below proposed site. Gravel pits have known health hazards and is concerned about how it will affect him, environmental impacts as drainage comes through his property. He doesn't feel that has been discussed enough nor what mitigation measures would be considered.

Robert Umburger stated he did not receive notification and wondered why. He said Mr. George previously said the gravel would be used in the Methow Valley. But the comparison form 2012 there is 457,000 cubic yards and assumes that is a county figure not what would be consumed only in the Methow Valley. Where will the water rights come from as the land has been pasture for years and has not seen irrigation on the site? Will the county sell gravel to the state? Competition of other private enterprise such as the new pit by Pateros with advertisements by the road. The material comparisons say the prices could be lower, but when we are talking about \$0.16 per cubic yard, then he should start a gravel pit since there is so much profit. Pollution in the water and air, the noise etc..... would be conducive to a game reserve and is also taking land out of the private sector and putting it into public which means loss of taxes. The biggest concern he had was to attend the local Methow meeting as he thought the commissioners would be there. He thought that would be after this meeting.

Howard lives in French creek His main concern is that there have been no alternatives to this. He doesn't understand why an alternative site could be included for comparisons. He has concerns at the Methow Valley meeting because they were asked to raise their hand if they were in favor, and he raised his hand. The county is on a ten year road cycle. He checked on Burma Road and it was last chip sealed in 2005 and now on schedule for 2020. He was told it wasn't economic to do sooner. Danker Cutoff Road, Cherokee Road all near a pit and they appear to be on a 16 year cycle. He said most roads are over the mark for chip seal. He said coming up with the money to buy the pit is another thing. What is the hurry.

Lorah Super program director MVCC and lives in the area and drives by the proposed. She did not attend the Methow meeting and many she spoke to have mixed feelings as there are still questions unanswered. The loose ends must be tidied up beforehand. Clarity on plan for crushing, Methow or county, one month or six months of noise, dust and noise control, visual mitigation from those across the valley, firm agreement conservation easement with WDFW, additional work with surrounding land owners, be a good neighbor, limit visual impacts. With that in mind they will be watching and listening as this project unfolds.

Chad Patterson cascade concrete and owns and operates gravel pits. He is coming at this strictly from a financial point and requested the decision be postponed. None of the numbers included his pit numbers, even though he was contacted about this earlier. There was no mention of the different materials, it was strictly 10,000 tons so they responded that they were not interested. He would like a chance to provide updated numbers for consideration. He would appreciate the county taking more time.

Donna Weishampel lives right across from the site. She said the meeting was in Methow not Winthrop, the pink flyer didn't go to her regular mail, the font was too small, no additional information about the meeting, and it wound up being standing room only. Many were concerned about what this would do to property values. She believes the impacts fishing, rafting and people coming for tourism. She said no one wants it in their back yard. She hopes the commissioners will look into it more.

Director Huston said if no one else wished to speak then the board will deliberate. Commissioner DeTro closed public testimony and opened up to the board. Commissioner Hover stated there was new financial information provided today, so he feels analyzation of the costs is necessary. Also for the board to do their due diligence he thought continuing the hearing so the board can digest and consider the information and testimony. Commissioner Branch said the fact the effort to notify people is above and beyond anything the county is required to do. The SEPA process may address some of the issues brought up today. This hearing is not addressing any legal requirement but rather to hear from the community on what their concerns are. He does agree the board must consider things brought up and it will be difficult decision to make. The pit is in a situation where many would not even see it, but the truck traffic and those things need to be considered and what that means and looks like. Commissioner DeTro said there would be no oil stored on site. The county cannot be in the business of selling gravel. Many of the issues will likely be worked out during the CUP process. The county is not rushing anything, but the county is officially out of rock in the Methow Valley. Commissioner DeTro did not believe a decision should be made today, but rather use additional time for the consideration. Commissioner Hover stated the county gets very little money for roads and current expense from the tax. The chip seal projects are created based on funds, but when the county takes away from road fund for current expense with a road levy shift, the impact is that projects get curtailed and how often things are chip sealed. Commissioner Branch hear today, was an issue with WDFW purchase of property being certain. We cannot be certain WDFW can purchase the portion for wildlife habitat should the intended grant money not be realized and could not purchase the property. Commissioner DeTro stated it isn't grant funds rather there is \$80 million in a fund specifically for conservation property purchases. Commissioner Hover said it is upland wildlife habitat the county would provide public access to the WDFW habitat areas. In continuing this we could get a letter from the Regional Director of what WDFW intends. Mitigation for water would also be needed.

Commissioner Branch said the challenge with this location is operating a pit quietly. Commissioner Hover discussed pits near residential areas. He understands people's concerns, and they are valid concerns, but there are several pits among residential areas already. Try to come up with something that could work, finish defining the project, and keep in mind all the work already done. Commissioner Hover is really undecided on whether he wants to go through with this project. He wants to ensure we are addressing these things.

Director Huston discussed the rigidity of the purchase and sale agreement as it has specific timeline requirements and recommended Mr. George contact the necessary people to extend the decision making process from 5 days to longer if the board wished for additional time to consider all the factors. Commissioner Branch would also like to discuss the financial challenges.

### **Motion Continue Hearing**

Commissioner Hover moved to close public testimony and continue the public hearing to July 30 at 2:00 and directed Mr. George to contact the land owner on extending the purchase and sale agreement. Commissioner Branch stated he would not second the motion because this public hearing process is not required and he didn't want people to be confused. Motion died for lack of second.

### **Motion Decision Postponement Purchase and Sale Agreement Gravel Pit Methow**

Commissioner Branch moved to postpone the decision of the Purchase and Sale Agreement to July 30 at 2:00 and close public testimony. Motion was seconded, all were in favor, motion carried.

### **Motion Staff Direction**

Commissioner Hover moved to direct Mr. George to contact land owner for amendment of the draft purchase and sale agreement to extend the timeframe to July 30 at 2:00 Motion seconded, all were in favor, motion carried.

### **Update – Planning Department – Director Perry Huston**

Angie Hubbard,

#### *Voluntary Stewardship Program*

Craig Nelson of Conservation District was invited to discuss the Voluntary Stewardship Program cost share for stewardship projects and compliance monitoring.

Mr. Nelson said it was a surprise there was a clause in the agreement about cost sharing. He explained what the process is. He is concerned about two entities vying for the same contract. Commissioner Hover would like a breakdown of the projects the board is being advised on.

#### *Water Availability Study Areas*

The well tracking grant was refurbished and Trevor signed off on the scope of work so that will moved forward. It morphed to now reassess the estimates to know how much the exempt well records show how likely to use in house domestic and outdoor irrigation taking off from the buildable lands data base.

#### *Draft Resolution Exempt well policies WRIA 48 Draft Letter Invitation (attached)*

Director Huston discussed the draft letter regarding the county's draft policies for dealing with water availability and an invitation for participation. Commissioner Hover would rather not sign it today until he has a chance to consult with other agencies. Commissioner Branch would like to discuss with other agencies involved as well. Commissioner Hover wants to be more precise in the conversation in order to get more of a sense of priorities from those involved. Documents states how the county operates, city jurisdictions have issues the county cannot address in terms of how much water they can get and compound county issues. They need to be addressed at the same time.

#### **Review Meeting Minutes**

Commissioner Branch moved to adjourn at 3:45 p.m. Motion was seconded, all were in favor, motion carried.

Dated at Okanogan, Washington this 16th day of July 2019.