

**RECORD OF THE PROCEEDINGS****OKANOGAN COUNTY****FEBRUARY 25, 2020**

The Okanogan County Board of Commissioners met in regular session at 123 5th Avenue North, Okanogan, Washington on February 25, 2020, with Chairman, Commissioner Jim DeTro; Vice Chairman, Commissioner Chris Branch; Member, Commissioner Andy Hover and Laleña Johns, Clerk of the Board, present.

8:50 a.m. George Thornton member of the public present taking hand written notes for Okanogan Watch Group.

**Commissioners' Staff Meeting**

David Gecas, Joe Poulin, Naomie Peasley

Mr. Poulin explained he spoke to DIVCO about a quote to replace the HVAC units on the Annex with minisplits, but it would require additional piping. It was suggested to use existing geothermal and do cooling tower units outside using the heat pumps we have now. He will explore that option rather than the minisplit option as it would not provide EM heat during low temps. The difference is we would use existing lines to heat and cool and there no additional piping needed.. All offices would be one temperature rather than each room having its own thermostat. We would still need additional injection wells. Mr. Poulin said he was contacted by Dave Petit about the Agriplex lighting upgrades. Commissioners will need to look at the budget and decide. The boiler is broken at the Agriplex and needs to be replaced. Quotes are being obtained for installation. Quotes for moving the north end fence line at the fairgrounds will also be obtained. Mr. Poulin explained alternative ideas until funds can be saved for a real fence.

Commissioners discussed setting the county surplus auction date for April 18, 2020 at the county fairgrounds. Commissioner DeTro thought if there was a tie among auctioneers, once the bids have been received and opened for auctioneer services, that a coin be flipped to determine the auctioneer services.

Naomie Peasley said she drafted some changes to the Fairgrounds Forms such as the rental and lease contracts, fee schedule, and the proposed in-kind services in exchange for lower fees policy. An hourly rate would need to be set, said Commissioner Hover. He thought this arrangement was for kids who didn't have enough money to pay to use the facility arena. He personally doesn't want this to be a free for all. Ms. Peasley considered that and she created a list of things the youth can do and it isn't for everyone it is more for like Jr. Rodeo groups, or non-profits . Commissioner Hover asked that there be some kind of contract and liability waiver drafted for the arrangement. Ms. Peasley said this would be for a youth group who wants to use the grounds in exchange for doing work on the grounds. He would like an hourly rate laid out so a kid can come in work the number of hours required for use of the facility and it is documented. Limit to a scope of work and apply the hourly rate to reduce the fee.

David Gecas discussed legal issues to avoid gifting with an in kind arrangement. The agreement should say they are not an employee, include a liability waiver, and summarize that the work takes place outdoors etc... There are certain things maintenance staff doesn't do like climb trees to trim, so those folks wouldn't be allowed to do those type of tasks either.

Ms. Peasley would like to move up the fair rule book publication date to publish on an earlier date. The Chronicle bases the timeline on what they can do. Ms. Peasley said the Chronicle is evaluating how to do this earlier. It will help put the information in the schools earlier so kids have the time to participate. Process for contract approval was discussed.

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

Commissioner Hover moved to go into executive session at 9:40 a.m. for 20 minutes inviting David Gecas and Angie Hubbard to discuss potential litigation matters which the county may or may not become a party when public knowledge could result in an adverse legal or financial consequence to the county. Motion was seconded, all were in favor, motion carried.

Executive Session was extended another 15 minutes at 10:00 a.m.

Commissioners exited executive session at 10:15 a.m. no decisions were made.

**Update Risk Management/HR-Tanya Craig**

Commissioner Branch discussed sharing a County Planner with the City of Oroville as there are many land use issues to be addressed in the North County especially Lake Osoyoos and Palmer Lakes. Commissioner Hover was in favor of an arrangement like that. We need additional top end planners. Commissioner Branch said he had someone in mind who has experience noting that he could certainly apply. Commissioner DeTro agreed another senior planner is needed. An agreement would be necessary with the City to articulate the arrangement. The city would help pay and offset the costs of an additional planner. Ms. Craig said it is doable. Would the board be interested in reviewing a senior planner job description? Yes. Depending on the number of hours the city needs the planner for versus the number of hours the county needs the planner for.

There is a section Title 2 of the County Code about a full North End Planning Advisory Group that would require expensive staffing to fulfill the provisions. It appears that it was never done and has been on the books for some 30 years. He noted that may need to be rescinded.

Interviews are set for the planning director position for next Monday and Tuesday. Planning Commission member Verlene Hughes will sit in on the interviews.

Ms. Craig informed the board about \$100,000 in claims from Public Works from the last two months that were avoidable incidences. The latest incident happened when the keys were left in a new 2018 public works pickup truck. The employee apparently needed to do paperwork at the shop. While he was in the building someone stole the vehicle, drove it around, and slammed into a semi-truck and totaled it. Then, on Thursday, a Public Works excavator operator forgot he parked a county rig near the excavator and then swung the bucket around and hit the county truck. It was an older pick up. Ms. Craig said these issues are avoidable incidences. The first invoice was received on the fuel spill from the plow truck going into Salmon Creek and it is more than \$50,000. Another invoice is expected once they collect the last clean up materials. Commissioner Branch asked if Department of Ecology was notified of the cost? They mentioned they would be generous in the amount. Charged for the expected penalty given the actions we had taken to contain the spill. He suggested that they be aware of the cost for the clean-up so that they may consider that in determining the penalty.

Board of Directors Risk Pool Conference is March 18-20, 2020. Ms. Craig and Commissioner Branch to attend.

**Update Central Services-Karen Beatty**

Ms. Beatty discussed items listed on her agenda.

Ms. Beatty upgrades of servers which they are involved with right now. Moving 5 in 2022 with cost around \$50,000 per server. Purchased additional equipment that holds five terabytes.

Website ready to help and looking forward to the upgrade.

Wireless infrastructure getting ready to upgrade around the complex. There are six wireless access

points for guests. Mr. Fritts took a class for aiding in Spokane. He will need additional training such as for Exchange. He might be able to do it here.

During budget a position for a Network Analyst was budgeted for, but we actually need more of an entry position for running tasks and support phone person that would do the basics, then Mr. Fritts can shadow Mr. Rowe for succession training. A job description was created for the Support Tech Position at grade 26. She would like to hire anytime. The resolution is listed on the commissioners consent agenda for this afternoon. The resolution does not remove the Network Analyst it only changes the Support Tech from half time to full time, grade 26. Commissioners discussed budget to coincide with this change.

Four positions budgeted for and one additional that is to remain unfunded. Commissioner Hover thought the extra funds could be used to purchase something needed for the department. The funds would need to be supplemented in the Equipment Reserve fund for spending.

Yesterday, Mr. Worden asked her about upcoming cyber security training. He has 911 funds to pay for her to go, so she will be going to that training in Kitsap County next month.

Commissioners added time to discuss the idea about providing a shared planner with the City of Oroville with Arnie Marchand who is on the City of Oroville Planning Commission. The idea is first to be discussed with the County Treasurer and Auditor.

### **Update - Public Works – Engineer Josh Thomson**

Engineer Thomson provided his agenda and discussed the items listed there.

#### *Maintenance & Road Conditions*

Pretty normal roadway conditions.

Engineer Thomson discussed the incident that happened in Oroville with a Public Works truck that was stolen and totaled by an 18 year old. He said the keys had been left in the truck's cup holder by the employee instead of on his person while he was doing paperwork in the office. Engineer Thomson said all shops have key boards and employees were counseled a couple years ago about key handling practices by the Risk Manager. The county is self-insured. Commissioner Branch noted that the key boards should be also made secure when nobody is around the shop.

Commissioner Hover discussed and idea to lease fleets. He sent information to a company for a financial analysis to see how much it would cost to lease fleet vehicles for the Sheriff's office. The company is able to lease fleets to entities with a buy back option. There is only a two-three week leeway needed to get the vehicles instead of six months. Mason County is using this option for their fleets.

#### *Statler Bridge Replacement Project*

They were going to do a girder installation but are a couple months behind on the whole project.

#### *RAP Preliminary Prospectuses*

Engineer Thomson said he will turn those in by the end of the week. He explained the different projects to replace culverts. An application for RAP was put together for that. An overlay project on Old 97 is also being prepared and a plan for Old 97 at Silver Spur to Ophir grade to be widened. There are many issues on Twisp River Road too, so he would prefer to apply for that project.

State highways have more potholes than ever before, and the state has less funding to deal with the issues. Commissioner Branch noted that deferred maintenance results in rapid failure of pavement.

### *Update Public Works Policies*

There are a few policies Engineer Thomson must report to CRAB with. There are two policies needing updated. The forms and process we use now is in there.

Two Public Work's policy updates were discussed. They are "Work for others" and "Complaint Handling". Resolutions were prepared for both policy updates.

Complaint handling would include anything that requires Public Works to do something. Commissioner Branch likes that there is a recorded process now.

### **Motion Resolution 32-2020 Public Works Policy Work for Others**

Commissioner Hover moved to approve resolution 32-2020 approving Public Works Policy regarding Work for Others. Motion was seconded, all were in favor, motion carried.

### **Motion Resolution 33-2020 Public Works Policy Complaint Handling Procedures**

Commissioner Hover moved to approve resolution 33-2020 approving Public Works Policy regarding Complaint Handling Procedures. Motion was seconded, all were in favor, motion carried.

### **Motion - Voucher Approval - Commissioners**

Voucher certified and audited by the Auditing Officer as required by RCW 42.24.080 and those expense reimbursement claims certified as required by RCW 42.24.090 have been recorded on a list, and made available to the Board. As of this date, the Board voted, by unanimous vote, to approve a special run voucher in the amount of \$900,860.79 for the Miller Pit purchase. Warrant number(s) as cited on the attached blanket voucher list. Motion seconded and carried.

Commissioner DeTro was not present at 1:30 p.m. when session began.

### **Citizen's Comment Period (may call-in 509-422-7105)**

George Thornton discussed Planning Commission topics of interest the commissioners were asking him about. Mr. Thornton said the board roughed out what they envision for a sub area planning for the county. Commissioner Branch pointed out that subarea work is a good thing. He pointed out that if the Board formalized it, it would take quite a bit of thought, because to staff something like that spelled out in for the North County currently in code may be too expensive as the county barely has enough staffing to cover its own primary planning issues. He also noted that a less formal process resulted in the creation of the neighborhood groups for the comp plan updated of the past.

### **Continued Public Hearing-Ordinance 2019-11 Interim Land Use Controls 17A.400.130 and 17A.400.120 (D) Water Availability Study Areas**

Chief Civil Deputy Dave Gecas, Interim Planning Director Angie Hubbard

A sign in sheet was provided for attendees to sign in as being present.

The Clerk of the Board turned the audio recorder on.

Commissioner DeTro opened up the public hearing and asked for staff report. Ms. Hubbard, Interim Planning Director of Okanogan County provided her staff report stating this was a continued public hearing regarding the interim controls ordinance 2019-11 to deliberate on the next steps.

Commissioner DeTro closed staff and opened up to the board. No verbal testimony was taken due previously being closed at the previous hearing.

Commissioners deliberated on the interim controls ordinance in place. Commissioner Hover said a lot of comments were received and range from don't do it to we should go beyond and this issue has been going on for now 40 years, but there has never been an answer to the question. He thinks personally that things have changed so much since then. We have to plan under pieces of GMA and

rural element shall provide for a variety of uses ect... needed to serve the permitted densities and uses. Our rule is written and we cannot do that so there is conflict with an instream flow rule and RCW and WAC and personally he believes the question should be answered. Comments have requested AGO on this matter and might be a good thing to do instead of making the decision today. Until we have a semblance of an answer or something we need to be careful in putting this into place. Commissioner Branch pointed out that the interim ordinance has been adopted already and it is still in place. Commissioner Hover said he did not want to make the decision on putting a study area on WRIA #48 until we get an AGO. Commissioner Branch repeated that the decision was already made to put the interim control in place and if we are waiting for an AGO, the interim control is in place already. The present hearing is to decide whether to leave it in place, change it, or discontinue it. It doesn't have to last two years, said Commissioner Branch. He said that we could rescind the interim control and or change it in the future. Commissioner DeTro said when staff gives the board info on the conflicts, he isn't an attorney or the right to make a decision without having the opinion of legal counsel. He believes the AGO opinion is going to help with an interpretation and guidance. Mr. Gecas said AGO won't give an opinion if one has already been given on this topic.

Commissioner Branch doesn't want to mislead anyone by dragging out the hearing. The interim control is in place now regardless whether we are waiting for an AG opinion. Commissioner Hover said the interim controls were put into place for a specific purpose to find out if the interim control is correct or what people think about it. He doesn't want to fully adopt the interim control today, as it would mean for him that he thinks it is true and valid then go do something else. He feels there needs to be more information given to the county. He doesn't feel personally that he can adopt it right now, based on comments received, there's been good comments and the board should look into those. Commissioner Branch said that it is already adopted, maybe the board should consider changing it. There were certain unintended consequences on the rule and water laws. The deal is, is there room to actually make adjustments to it? Commissioner Branch discussed exempt sub division, Methow rule, interpretation on how Campbell and Gwinn affects it, conversation about it, good work affected by it, so it has unintended consequence that affects a good project that does good things. He said that in the comments he heard from some folks that the rule doesn't affect large lot subdivisions such as conservation work in progress. Commissioner DeTro said that fits under the rule for rural.

Commissioner Hover discussed the basin plan. For someone to say the rule was written and we cannot subdivide, why when they wrote the rules, single domestic use there is no bright line. Judges are ambiguous and makes it hard to make a decision when they are not concise.

The rule says that DOE reviews and they don't, said Commissioner Hover. Commissioner Branch stated the options as a result of this hearing are to change the ordinance, keep it in place, or remove it. He discussed the option he feels is best. A lot of research is necessary. Commissioner Hover wants to make the issues a priority of the board for resolve. He read a piece from the 1976 resource report. Commissioner DeTro said he wants to make this a priority.

Commissioner DeTro asked if there are ill effects for closing public comment. Interim controls must be more than interim controls, said Commissioner Hover. Commissioner Branch repeated that the ordinance has already been adopted. The prolonged hearing only says we did something without a public hearing and the statutes provide that we have the hearing to decide whether it should be kept in place. He further explained why we should close the hearing noting that the ordinance is interim so we can learn about the subject for which we can adopted the interim control. Commissioner Hover said he needs more information before he can decide to adopt it permanently. He could make a motion to remove it. Commissioner Branch asked David Gecas if we keep the ordinance in place and close the hearing, then gather more information wouldn't we need to have another public hearing to take testimony on the changes. Commissioner Hover would like more information and an AGO on this matter. Ms. Hubbard said if we close the hearing then make changes, then those changes would have to go through the same motions as was originally done.

**Motion Close Public Hearing**

Commissioner Branch moved to close the hearing keep the ordinance in place and do what we need to do in the first place. Motion died for lack of second.

Commissioner Branch then asked whether or not the other commissioners were ready to make changes. Commissioner DeTro explained why we should leave the hearing open and obtain the information we need. Commissioner Hover said there were many comments received.

David Gecas was handed a newspaper article by someone in the audience that said that public comment was open. The newspaper was misinformed. Are there other obligations of the board to allow public comment even though they moved to close?

**Motion Continued Public Hearing July 28, 2020 at 2:00 p.m.**

Commissioner Hover moved to continue the Public Hearing to July 28, 2020 at 2:00 p.m. Motion was seconded, all were in favor, motion carried.

Will work with David Gecas to form a question that will go to the Attorney General. Commissioner DeTro said if we get short session and we get participation by senator or representative can we move the public hearing up? With adequate notice to the public if the date were changed. Commissioner Branch asked if the board can discuss this while the hearing is still open or wait until July 28. Commissioner Hover said if the AGO response comes sooner than the BOCC may decide to move it up.

Does the board wish to close written comment, asked Commissioner DeTro?

**Motion Close Written Comment**

Commissioner Hover moved to close written comment. Motion was seconded, all were in favor, motion carried.

Commissioners took questions from the public and left the recorder on. A woman (Ms. Woodward) asked if it was Unreasonable to expect an answer from the AG in time since we haven't gotten one in the last 40 years about these issues. Commissioner DeTro said our senators and representatives will be involved and will put pressure on him to expedite. Commissioner Hover said we have worked with the AG on many things and have received answers quickly. Commissioner Branch said it depends on how the question is formed. It is an opinion and isn't the law in the end. The best argument wins. A question that affects everyone else in the state would be complicated to answer and could take longer. It depends on how the question is formulated.

Commissioner Hover said the instream rule says 14 cubic feet for family domestic and stock water, then it gives base flow, then it gives the public water supply below other uses. The fact there is a challenge out there because of a 2002 court case. It talked about group use as a 5000 per day not an instream flow rule. He asked everyone to go to the Methow Watershed council and read the information presented to them in 1976, ideas they formed, and what they were thinking of at that time. As we move through this we have court cases that seem to make this rule to state we can never subdivide any of our property, then why didn't they just say no more subdivision in WRIA 48 because we have written a rule for single family use and that is it. The question is, trying to relate 1976 instream flow rule and a GMA requirement of Okanogan County that says we have to plan for the rural element. If we wanted to plan for a fire department we couldn't do it because it isn't a single family under the rule it isn't allowed. It limits our ability to do good planning. There are people who want to do cluster development and keep ag uses viable, but we cannot do that because we cannot do cluster developments.

Will the Board be developing the question with the public or with themselves? David Gecas said it depends on who is drafting the question and submitting it. Commissioner Hover said he is open to

anyone emailing him about ideas to resolve the question he welcomes those.

Dick Ewing said Ecology is interpreting Campbell Gwinn one way for one person and another way for someone else. Commissioner DeTro said that is one of the problems. David Gecas explained that Campbell Gwinn doesn't interpret the Methow Rule and it doesn't have rules for subdivisions and these are the things we need the AG to help with.

Commissioner Hover said he read through Campbell Gwinn. The rule actually set forth no limits on how much water exempt use meant. Then we have 36.70A GMA that says counties need to plan a certain way. If it says we have to plan under and it says we shall plan under them, then why doesn't Whatcom County have to plan under the rule.

Sandie Mackie said he would help with the language. He spent 50 years living these challenges. He said segregate the subdivision question. Tease out the single family subdivision. He said the question will need to be formed carefully and would be happy to work with the board on it. Commissioner Hover said he has pour through the data we have, DOE listing of all water in trust system right now, 50-132cfs that has been put into trust. Up to ten times the total amount of water allowed for domestic use has already been put into trust. He is all for good planning, clustering, and we cannot do it the way it is structured right now.

Commissioner DeTro thanked the group for their participation. He said we do have another meeting and asked folks to visit outside the hearing room.

#### **Discussion Public Health-Dave Hilton**

Commissioner DeTro asked if the State Public Health Dept. of Ecology has informed a constituent of his about a well they determined was too close to a creek. Commissioner DeTro said what they thought was a creek is actually an irrigation ditch. The creek location is much further away. WAC and rule making on animal feeding operations says you cannot keep livestock in a corral because of the waste build up. But Okanogan County is an agricultural county.

#### **Approve Commissioners Proceedings – February 10, 11, and 18, 2020**

Commissioner Hover moved to approve the county commissioners' proceedings of February 10, 11 and 18, 2020. Motion was seconded, all were in favor, motion carried.

#### **Approve Consent Agenda**

Commissioner Hover moved to approve the consent agenda items 1-13. Motion was seconded, all were in favor, motion carried.

1. Contract-Lodging Tax LTAC 20-010 Methow Valley Chamber Music Festival-\$10,000
2. Contract-Lodging Tax LTAC 20-005-Confluence Gallery-\$7,500
3. Acknowledge (2) Fairgrounds Rental Contracts Signed by Naomie Peasley- OCCDA and Hort Assoc.
4. Agreement-High Resolution Satellite Imagery-WaTech-OCSO Dispatch
5. Agreement-Homeless Housing Funds-Okanogan Community Homeless Shelter-Will Keller
6. Appointment Letter-Okanogan Irrigation District – Otto Yusi-Division #1
7. NDA Agreement-CERB -ACRS, LLC, CCT, and Okanogan County
8. Agreement- Non-Commissioned Between Okanogan County Sheriff's Association and Okanogan County
9. Contract-Grant Renewal HMGP D20-026 -FEMA Emergency Management
10. Resolution 28-2020 Creating Building Permit Tech & Promoting Employee within Building Dept. to Position
11. Resolution 29-2020 Reclassifying Building Admin Secretary to Building Admin Assistant
12. Resolution 30-2020 Authorizing Central Services FTE IT Support Tech Position
13. Resolution 31-2020 Authorizing Elections Dept. Pay Rate Change Due to WA ST Minimum Wage

## Changes

### **Motion LTAC 20-001 Borderlands Society \$8,500**

Commissioner Hover moved to approve the LTAC contract between Okanogan County and Borderlands Historical Society for hotel motel taxes. Motion was seconded, all were in favor, motion carried.

The board adjourned at 5:00 p.m.