

BENTON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
MAY 7, 2019

The Benton County Board of Commissioners met in regular session on May 7, 2019 in the Benton County Board Room in Foley, MN with Commissioners Jake Bauerly, Warren Peschl, Ed Popp, Steve Heinen and Spencer Buerkle present. Call to order by Chair Bauerly was at 9:00 AM followed by the Pledge of Allegiance to the flag.

Peschl/Popp unanimous to approve the amended agenda—add items: construction contract for CR 78 reconstruction project; relocation agreement with East Central Energy for CR 78; discussion of structure at 80 N Freedom Road, Rice; follow-up on prospective lease of the Eastgate facility; and communication regarding Bend in the River regional park designation.

Jim Hovda (160 North Freedom Road, Rice) appeared under Open Forum, stating, in part “...on April 10th, I appeared before the Langola Township Board and Benton County officials to request a reduction in my estimated market value...although I disagreed with the findings of the board, the township supervisors were cordial and respectful...not so, Mr. Michael Harvey, your county assessor...he projected, in my opinion, an attitude of indifference to rural residential home owners...he represents you good commissioners and the county...” Also present under Open Forum was Paula Kampa, City of Rice Council member. She stated the city’s concern with a specific parcel owned by the City of Rice and leased by Prairie Farms; when inquiring why the city did not receive the tax statement for this parcel, the city was informed by county staff that the tax statement was sent to Prairie Farms, who is leasing the land. Kampa noted that the city never authorized the change to Prairie Farms and the city desires to have the parcel back in the city’s name; further, this is causing an auditing issue for the city who should be paying the taxes on this parcel. She asked that this situation be remedied.

Popp/Peschl to approve the Consent Agenda: 1) approve the Regular Meeting Minutes of April 16, 2019 as written; 2) accept and file Management Team Meeting Minutes of March 14, 2019 as written; 3) accept and file Committee of the Whole Minutes of April 8, 2019, and authorize the Chair to sign; 4) accept and file Committee of the Whole Minutes of April 15, 2019, and authorize the Chair to sign; 5) approve Applications for Exempt Permits, with Resolutions, for *Clear Lake Lions* to hold a raffle at Goodfella’s, 14351 – 78th Street NE, Foley, on June 1, 2019 (Resolution 2019-#10) and to hold a raffle at Jack & Jim’s, 11025 Duelm Road NE, Foley, on June 14, 2019 (Resolution 2019-#11); 6) approve 2019 SCORE Grant Applications Round II as recommended by the Solid Waste Advisory Committee; 7) approve 2019-2020 State of MN Department of Corrections Work Release Agreement, and authorize the Chair to sign; and 8) approve construction contract for CP 005-078-005, County Road 78 Reconstruction Project, and authorize the Chair to sign. Motion carried unanimous with the exception of Consent Agenda Item #1—Heinen abstained from the vote as he was not present at the April 16, 2019 County Board meeting.

Sheriff Troy Heck reported that May 12-18, 2019 has been designated as National Police Week; this designation honors the men and women of our nation’s law enforcement agencies who work to ensure citizens may live their lives without fear of harm or loss. Heck noted that these dedicated men and women work under difficult and dangerous conditions dealing with violent, mentally ill, and dangerous individuals. He stated that Benton County is fortunate to have a talented and dedicated group of professional peace officers serving the county. Buerkle/Heinen unanimous to recognize the men and women of the Benton County Sheriff’s Office and direct the Chair to sign the proclamation for National Police Week in Benton County.

Phil Miller, County Attorney, explained that the person holding the ¾ time Assistant County Attorney position in his office has submitted her resignation; due to the ever-increasing caseload and the increased severity of those cases, he is requesting that the position be converted to full-time. Miller noted that most of the attorneys in his office are maxed out in vacation and comp time. He stated his intent to request the position be converted to full time effective 01/01/2020, but given the recent resignation, he is requesting approval to post for a full-time Assistant County Attorney as soon as possible. Miller stated that this action should have minimal effect on the 2019 budget since the office is below budget for expected 2019 salaries given the recent retirement in his office; it would have an impact on the 2020 budget. Buerkle commented "...I don't see anything wrong with the request...I just don't want to see the integrity of the budget compromised by requests outside the normal budget process..." Popp stated "...I agree with Commissioner Buerkle, but we need to look outside the lines when the opportunity exists..." Peschl/Popp unanimous to authorize the ¾ time Assistant County Attorney position to be converted to full time and allow the posting for a full-time Assistant County Attorney as soon as possible.

Roxanne Achman, Department of Development Director, explained that Geronimo Energy has indicated that a letter of support from the Benton County Board of Commissioners would be beneficial in getting their Regal Solar Project approved by the Minnesota Public Utilities Commission; a similar letter of support was recently submitted by Langola Township. Popp commented "...from this project, I see little or no downside...the amount of income that comes to the county will be \$176,000 roughly per year besides the property tax we are already gaining...also, we are in a market where we have a surplus crop all over...if we are taking 800 acres out of production, I think it's a good deal...there is going to be five full-time employees and an outside chance that there will be another facility built on this property...after the project is up and running, we have no services that we will have to provide...I would support that..." Buerkle commented "...this is an allowable use within our ordinance...why do we have to have a separate document coming from this Board on something that is already allowable...I don't know if it's good policy for the Board to start picking those things out..." Heinen added "...I have the same concerns as Commissioner Buerkle...if it's an allowable use anyway, why are we having to go through another step..." Bauerly and Peschl noted their support for a letter of support from the County Board. Popp/Peschl to approve the prepared letter of support and authorize the Chair to sign. Motion carried with Popp, Bauerly and Peschl voting aye and Buerkle and Heinen voting nay.

Achman reported that the dilapidated structure located at 80 North Freedom Road, Rice, was first brought to the attention of the county in August 2018; the property was reviewed by Public Health and the Department of Development to determine if any violations existed. She stated that, at that time, the Department of Development could find no zoning or solid waste violations that could be addressed; the county does not have a blight ordinance that is common for cities to have in place. Achman pointed out that, due to limited visibility, Public Health could not make a determination as to whether the structure posed a public health concern; upon making contact with the concerned neighbor, contact information for the property owner was obtained. Achman stated that, ultimately, Public Health provided the property owner with contact information for the Department of Development so that he could obtain information on tearing down the structure versus repairing/remodeling it; the property owner did not make contact with the Department of Development. Achman added that a letter, dated April 21, 2019, was sent to the Benton County Board of Commissioners from Langola Township regarding this structure; she has since become aware of a state statute regarding hazardous or substandard buildings as a way to remove a structure, but this structure would need to meet the strict definition of hazardous. Achman clarified that should this building meet the definition of hazardous, the

county can require the property owner to correct the issue or remove it; should the property owner fail to correct or remove the structure, the County Board would need to serve an order to correct or remove the building. Peschl inquired if Langola Township could take action; Achman will get a legal opinion from the County Attorney's Office. Heinen stated his recommendation that staff first contact the property owner by phone or letter and address the concerns of the neighbors/township officials in hopes of agreeing to a plan to improve or remove the structure; there was Board consensus that this be the first step (not addressing it as a hazardous building, rather as a possible hazardous building). Heinen stated his belief that the township should also be involved in this issue.

Achman reminded Board members of the Community Open House on the Benton County Comprehensive Plan to be held at the Watab Township Hall tomorrow from 4:00-8:00 PM; the public hearing will be scheduled before the Planning Commission on May 23rd with the final public hearing before the County Board on June 4th.

The Regular County Board meeting was recessed at 9:42 AM to conduct a Human Services Board meeting.

The Regular County Board meeting was reconvened at 9:54 AM.

Chris Byrd, County Engineer, requested Board consideration to award a construction contract for project CP 005-055-009, CR 55 Hot-in-Place Recycle Project (Gordon Bridge to Rice); he stated "we need to do something today to address the driving surface of the roadway". Byrd noted that the Hot-in-Place Recycle Project is a maintenance activity to make the driving surface smoother; it would not add structural capacity or widen the roadway. He explained that bids were opened on April 26th with one bid received; Dustrol Inc. of Towanda Kansas was the lowest responsible bidder at \$714,866 (7% over Engineer's estimate). Popp commented "...I know we will have a lot of complaints and concerns about this from the Rice area...the Park Board and the Park Steering Committee from Rice are looking at doing some things at the park...I've had a lot of complaints from businesses that are using CR 55 to get to Rice to get on the highway...we've got other needs in the county..." Byrd stated "...expected life of this project would be ten years maximum...we should consider looking at CR 55 from the park towards Rice and doing some things...planning, right of way acquisition, design, that's three to four years, or even five years, out...the road condition...I don't think it would survive that...I don't see a negative to completing this maintenance activity today to give us that time to plan and develop a good project in the future...I do have a concern that we won't be able to patch it enough or maintain the driving surface between now and whenever we get that more significant project going..." Popp reiterated "...there are four or five businesses using that road now to get to Rice...they all have trucks and over-wide loads...there's a huge amount of bike traffic on that roadway...I have concerns that ten years is a long time to let that road be...we need to prioritize..." Byrd agreed that "there are some valid discussions that need to occur in the next couple years and include stakeholders from the City of Rice and the Rice business community...I want to be sensitive to the needs and the concerns of the public...I also want to be able to provide a smooth driving surface..." Bauerly stated "...what would it cost for an inch-and-a-half patch on that road to get by for five years for this 5.5 miles...for \$450,000 you could put a patch on that road..." Popp added "...we are going to need to do some curve straightening...we definitely need some type of a bike lane...it's a daily occurrence...we are asking for a tragedy...this is a pretty significant amount of money to spend on that kind of a fix that's only going to last ten years max...maybe just patch it until we do a long-term fix..." Heinen commented "...this is a huge price to put on a road that we know has got to be fixed sooner than later...and it's 7% above Engineer's estimate..." Bauerly pointed out "...this process is far from proven...we seldom accept things with one bidder...a Kansas contract doesn't employ Benton

County people and it is over estimate...” Popp suggested putting this issue on hold and have the Board view the road on their spring road tour. Peschl/Popp unanimous to take no action on this item at this time.

Byrd referenced the CR 78 reconstruction project, reporting that East Central Energy has an overhead electric line outside of the original 33’ right-of-way; the county acquired additional right of way to accommodate current engineering standards and maintain a “clear zone”. He stated that, due to the existing utility being on private easement and the county acquiring additional right-of-way, the county is responsible for reimbursing East Central Energy for relocation costs (\$90,248.00). Popp noted that Benton County has a resident serving on the East Central Energy Board; he urged Board members to contact that individual to state the Board’s concerns with the county’s responsibility for paying this bill. Following brief discussion, Popp/Peschl unanimous to approve the relocation agreement with East Central Energy for CR 78, and authorize appropriate signatures.

Byrd referenced the recent open houses held in Foley and Sauk Rapids regarding a possible Local Option Sales Tax. He presented a list of projects to be considered for a possible Sales Tax for Transportation resolution, asking the Board to think of this as an eligibility list that the county will use to create the five-year road construction capital improvement plan and identify funding sources to complete much needed road projects. Byrd noted that the project list represents about \$34 million worth of projects; the tax ends once collections are enough to fund the identified projects. He stated his understanding that future Boards could decide to remove or add projects, following the proper public hearing/ resolution adoption process. Peschl inquired about prioritizing projects. Byrd explained that the next step would be discussing the five-year road plan, prioritizing projects and identifying funding sources. Monty Headley, County Administrator, noted that the public hearing on the sales tax is scheduled for the May 21st County Board meeting; if approved by the Board, collections will start October 1st. Board consensus that the County Engineer incorporate this list of projects into a resolution to be considered as part of the public hearing process on May 21st.

Administrator Headley reported that the Greater MN Regional Parks and Trails Commission Evaluation Team recently reviewed Benton County’s application to consider designation of Bend in the River Park as a regional park (this designation is required in order to receive legacy fund grants); the result was that Bend in the River Park did not receive the regional designation. Headley indicated that he will follow-up with the Parks and Trails Commission to understand what improvements he could make to Benton County’s application to possibly achieve the regional designation.

Headley provided a follow-up to yesterday’s County Board Committee of the Whole regarding possible leasing of the Eastgate complex in east St. Cloud for office space for Benton County Human Services. He reported that the property owner is not able to accept the county’s proposal for \$6.00 per sq. ft. for a two-year period, clarifying that the property owner never proposed that the county would pay \$6.00 per sq. ft. for any lengthy period of time; rather, his proposal was that the county could pay the \$6.00 per sq. ft. in the Wells Fargo suite for two or three months if the current tenants were to move out at that time. Headley noted that the current tenants did not move out and they have a lease until October 2020; he asked the Board to consider a proposal to occupy the two suites in the 451 building and the one suite in the 425 building. Headley noted that the Wells Fargo suite would not require acquiring furniture and no build-out is necessary; these costs would be required if moving into the Ideal Options suite (current leaseholder) in the 425 building. He added that it is not known today whether the current Ideal Options suite will be needed in the future. Peschl/Popp unanimous to move forward with

negotiations for leasing the Eastgate II and Eastgate III buildings and bring the proposed lease agreements back to the Board for consideration following County Attorney review.

Board members reported on recent meetings they attended on behalf of the county.

Under Commissioner Concerns, Commissioner Heinen presented a proclamation for Emergency Medical Services Week. Popp/Heinen unanimous to proclaim the week of May 19-25, 2019 as Emergency Medical Services Week in Benton County, and authorize the Chair to sign the proclamation.

Popp/Peschl unanimous to set Committees of the Whole: May 8, Community Open House on Benton County 2040 Comprehensive Plan; May 29, Spring Road Tour; May 30, Meeting with Watab Township Officials Regarding Township Request for County to be a Party to Township Developer Agreements; June 10, AMC District 5 Meeting; and June 3/September 9/December 2, Human Services Committees of the Whole.

Heinen/Buerkle unanimous to adjourn at 11:17 AM.

A. Jake Bauerly, Chair
Benton County Board of Commissioners

ATTEST:

Montgomery Headley
Benton County Administrator