

COMMISSIONERS' MINUTES
KITITAS COUNTY, WASHINGTON
COMMISSIONERS AUDITORIUM
SPECIAL MEETING

TUESDAY

2:00 P.M.

SEPTEMBER 21, 2010

Board members present: Chairman Mark McClain, Vice-Chairman Paul Jewell and Commissioner Alan Crankovich.

Others: Catherine Dunn, Deputy Clerk of the Board; Judy Pless, Budget and Finance Manager; Kay Kresge, Accountant; Neil Caulkins, Deputy Prosecutors; Kirk Holmes, Director of Public Works; Jan Ollivier, Transportation Manager; Dan Valoff, Planner; Catherine Clerf, Ron Cridlebaugh, Economic Development Group; Steve Verhey, Mark Kirkpatrick; Jill Arango, Cascade Land Conservancy; Mike Johnston, Daily Record and about 30 persons representing the public.

PUBLIC HEARING TEANAWAY SOLAR RESERVE DEVELOPMENT AGREEMENT CDS

At 2:00 p.m. **Chairman McClain** opened the public hearing to consider the proposed Teanaway Solar Reserve Development Agreement. He reminded everyone that comments were to be made on only the Development Agreement. **Commissioner Crankovich** noted that the Board could not condition a Development Agreement.

Anna Nelson, Contract Planner, presented the Development Agreement. She said there have been five comments received on the Agreement and she noted that staff had added clarification on page 14, which she presented to the Board. She said the authorization for the Development Agreement is by RCW and Kittitas County Code, which is included in Attachment C of the Agreement.

Commissioner Crankovich asked what the Technical Advisory Committee was concerned with. **Ms. Nelson** said TAC was established for the tree planting plan and included members from WA ST Fish & Wildlife, Department of Natural Resources, Noxious Weed Board, Fire Marshal, Director of County Public Works, applicant and the landowner, American Forest Land Company.

Howard Trott, applicant, gave a brief history of the project, stating that they first met with staff in a pre-application meeting in July, 2009. In August, 2009, they submitted the application, SEPA Checklist and technical reports. In February 2010, the company submitted supplemental SEPA documents and a MDNS was issued by the County on July 15, 2010. On August 11, 2010 the project received a

Conditional Use Permit from the Board of Adjustment, which required a Development Agreement. **Mr. Trott** said that the company had many public meetings, starting in August, 2009 and sent out four newsletters to interested parties, as well as having an office in Cle Elum and a website dedicated to the project.

Craig Neville, 707 West Second, Cle Elum, submitted data regarding cost capital and said the growth curve of energy is going up. He urged the Board to expedite this project.

Cheri Marusa, 808 Lincoln, South Cle Elum, advocated support for the Teanaway Solar Reserve and the Development Agreement.

Claire Hein Nicholls, Shoemaker Manufacturing, Cle Elum, said the Development Agreement is one of the crucial last hurdles for this project. She recommended approval of the Development Agreement.

Valeria Barschaw, 1087 Hidden Valley RD, asked for the Board's support of the Development Agreement.

Kristina Proszek, **Yakama Nation**, said the Yakama Nation objects to the Development Agreement because the County failed to consult with the Yakama Nation; the treaty rights (of the 1855 treaty) include rights to ceded territories including all Kittitas County and part of the treaty is government to government consultation; the LUPA challenge that an EIS be undertaken; Yakama Nation rights are implicated in the LUPA case; she asked for the Nation to meet with the Commissioners. **Chairman McClain** asked if she had any substantive questions on the Development Agreement. **Ms. Proszek** said she was not authorized to speak on that subject.

Barbara King, 4051 Lambert RD, Cle Elum, suggested the Development Agreement be put off until the LUPA hearing is finished. She also objected to not receiving the attachments and opposed the Development Agreement.

William King, 4051 Lambert RD, Cle Elum, asked if the glare concerns were addressed in the Development Agreement. He had concerns on de-commissioning and objected to the tax credits received by the company.

Chuck Adams, **General Manager of Pine Hills Ranch**, adjoining landowner, expressed opposition to the project and questioned whether fencing, bonding, noise and Weihl RD access were included in the Development Agreement mitigation. He opposed the project.

Stephanie Hanson, 901 Weihl RD, Cle Elum, opposed the Development Agreement asking if there was mitigation for wildlife and noise.

Ron Cridlebaugh, Economic Development Group, said this was a standard Development Agreement and agreed with the staff recommendation for approval.

Sandra Rivera, Thorp, spoke in opposition to the Development Agreement stating concerns with continued monitoring of wildlife and possible alternative sites.

Marc Kirkpatrick, 108 E Second St, Cle Elum, said he supported the project and the Development Agreement which, he said, holds the applicant accountable. He said he hopes the Development Agreement is expedited.

Catherine Clerf, 60 Moe RD, Ellensburg, submitted a packet of information containing a public disclosure request concerning the police report on the theft of public documents (American Forest Resources Binders) and a written summary of her statement. She objected to Kirk Holmes being on the Technical Advisory Committee. She wondered who would be responsible for snowplowing Weihl RD and Loping Lane and expressed concern over the access on Loping LN, construction hours and the amount of control the applicant seems to have.

Michael Hansen, 901 Weihl RD, Cle Elum, said he appreciated the generosity with the setbacks and construction times. He said he had read the Development Agreement three months ago and has not reviewed it again. He thought the site map should be part of the Development Agreement and he hoped the applicant will maintain the setbacks. He asked if the applicant uses local fabrication, where will it be?

Bonnie Reay, 108 West Second ST, Cle Elum, said she was upset with the Development Agreement and had no confidence in it. She asked if it was sent to the municipalities in the Upper County and was concerned about transfer of the project ownership to another owner and the performance bonds.

THERE BEING NO ONE ELSE REQUESTING TO TESTIFY, THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Vice-Chairman Jewell asked staff if the questions on road access, construction hours, glare and the MDNS were all contained in the Development Agreement. **Anna Nelson, Contract Planner**, said all the items mentioned were in the attachments: Attachment B: SEPA MDNS; Attachment C: Conditional Use Permit; Attachment D: Fire Service

Agreement and Attachment E: Proposed Site Layout. She said that any voluntary mitigation was included in the application and site design.

Vice-Chairman Jewell asked if there were any changes in the documents? **Ms. Nelson** said the only changes were from the Board of Adjustment conditions. She said the record showed consultation with the Yakama Nation and she said all attachments were previously in the record.

Vice-Chairman Jewell said the bonding for de-commissioning was 110% and the road performance bond was 135%. He asked why they were not the same. **Neil Caulkins, Deputy Prosecutor**, said they worked with the Department of Public Works and the Risk Pool to determine the percentages for the bonds. He said they were similar to the bonds for the wind farms.

Chairman McClain asked some questions about the timing of de-commissioning. He wondered how they would deal with a catastrophic weather event. **Neil Caulkins** said they would work under the repair provisions. He said the County could call upon the de-commissioning bond, if necessary.

Vice-Chairman Jewell asked about the failure, in the eyes of the Yakama Nation, to consult with them. **Anna Nelson** said Community Development Services had sent a number of public notices and memos to the Yakama Nation as well as the municipalities, for the Conditional Use Permit and the Development Agreement. These went to interested parties, with four in the Yakama Nation. She said she emailed the Cultural Resources office and they have received letters from the Yakama Nation in April, saying they had no objections to the project and in August, objecting to the lack of consultation.

Vice-Chairman Jewell said it appeared by testimony, they expected more consultation. **Ms. Nelson** said she was not aware the County did anything like the consultation requested by Ms. Proszek. **Vice-Chairman Jewell** asked if this was unusual. **Ms. Nelson** said as it was a Development Agreement, she thought it was. **Commissioner Crankovich** asked if they should have expected more. **Neil Caulkins** said they were treated the same as the other governmental entities. **Commissioner Crankovich** asked if the Upper County entities received the Development Agreement. **Ms. Nelson** said they sent notice to the municipalities and the Yakama Nation, that the documents were on the website. **Patrick Ryan**, attorney for the applicant, said they made six attempts to contact Ms. Proszek to meet with her, which they had no response.

Commissioner Crankovich said in Section 6.3.4, he thought it should read that the County should have "unrestricted access" instead of "reasonable access".

Chairman McClain said in Section 6.3.3 language should be added to provide an annual report on the data to Community Development Services. **Ms. Nelson** said between the sentences "applicant shall prepare and maintain at all times during the life of the project, all records and Data necessary to establish the Historical Energy Production of the Project." and "Applicant shall allow the County access to such records and data upon County's written notice as provided herein." a sentence reading "Applicant shall provide an Annual Report to the County..."

Commissioner Crankovich said variances from the Kittitas County Road Standards should go before the Road Variance Committee. **Deputy Prosecutor Caulkins** agreed.

Chairman McClain asked what structures would be as high as 150 feet? **Ms. Nelson** said transmission towers transmitting power from the solar farm to the Transmission lines.

Commissioner Crankovich asked about the variance from the County Code requiring a 200 foot setback to Commercial Forest zone on the north side of the property. **Ms. Nelson** said since the code was put in for the protection of residences next to timber harvest property, it would not be necessary for this project and modifications were made.

Vice-Chairman Jewell said that considering the comments from the Yakama Nation, he would like to delay making a decision until he had an opportunity to re-read the record.

Vice-Chairman Jewell moved to continue the public hearing to October 5, 2010 at 2:00 p.m. in the Commissioners Auditorium with the written record to remain open until 5:00 p.m. on September 29, 2010.

Commissioner Crankovich seconded the motion. Motion carried, 3-0.

PUBLIC HEARING

DISPOSAL OF COUNTY ASSETS

AUDITORS

At 3:24 p.m. **Chairman Mark McClain** opened a public hearing to consider a Resolution to declare certain County property surplus to the County, hold a surplus sale, transfer property and declare certain property junked or destroyed.

Kay Kresge, Accountant, said the items listed need to be declared surplus as they are no longer of use, transfer some assets to other

government agencies and remove some items from the inventory list as they are junked or broken assets. The surplus sale auction will be held on October 2, 2010 and will be held jointly with the City of Ellensburg, Kittitas County and Kittitas Reclamation District.

THERE BEING NO ONE REQUESTING TO TESTIFY, THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

RESOLUTION 2010-096

DISPOSAL OF COUNTY ASSETS

AUDITORS

Commissioner Crankovich moved to approve Resolution 2010-096 to declare certain County property surplus to the County, to hold a surplus sale, transfer property and declare certain property junked or destroyed. **Vice-Chairman Jewell** seconded the motion. Motion carried, 3-0.

PUBLIC HEARING

RENEGOTIATION OF CARAVAN LEASE

COMMISSIONERS

At 3:30 p.m. **Chairman McClain** opened a public hearing to consider renegotiation of a lease for the former Caravan Espresso lot located at 409 N Ruby adjacent to the Permit Center.

Neil Caulkins, Deputy Prosecutor, explained that the lease with the former business owner has recently been terminated and the new owner of the business is interested in negotiating a new lease with the County for the premises.

Chairman McClain asked what the existing lease amount was. He was told it was \$575 per month.

Ken Beedle, 370 Trinity LN, Ellensburg, said he had been in business in Ellensburg for 30 years and is now getting into the coffee business. He said he didn't have any information on the property and he was thinking about a lower monthly amount for a longer period of time.

Chairman McClain said because the building which has been improved is on the property without a lease, it could be construed as trespass. He said the Board has discussed whether to have the lease available at all.

Commissioner Crankovich said there was a lease on the building that just kept being extended. He said he thought it usually was for five years, but he thought it should run until the date of the building payoff. **Judy Pless**, Budget and Finance Manager, said that would be 2012.

Mr. Beedle said he would like to have a longer lease. **Neil Caulkins** said the County terminated the previous lease and the building and contents do not belong to the County. **Judy Pless** asked if the leaseholder tax is included in the monthly lease price. **Commissioner Crankovich** said it is.

Chairman McClain told **Mr. Beedle** to review the lease and then the Board would come back to it after the next public hearing.

PUBLIC HEARING

AMEND ADMINISTRATIVE APPEAL PROCESS

PROSECUTOR

At 3:50 p.m. **Chairman McClain** opened a public hearing to consider amending the administrative Appeal process KCC 15A.07.

Neil Caulkins, Deputy Prosecutor, said the Board had wished to revamp the Administrative Appeal process. He said there were two methods: remove it altogether or have it done with written records. He explained the written record method would consist of the existing record with briefs from each party, which would be considered by the Board and the decision would be made from the written information. Another method would be as part of a Land Use Petition Act (LUPA) on the entire decision. He said the Board had the proposed language for the written appeal method.

Vice-Chairman Jewell asked if the citations included in a brief are considered new record? **Mr. Caulkins** said the law is not considered new information and case law and statutes are allowed in briefs.

THERE BEING NO ONE REQUESTING TO TESTIFY, THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Vice-Chairman Jewell asked about the timing used in the new language. **Mr. Caulkins** explained since there are no oral arguments, no rebuttal time is necessary. **Commissioner Crankovich** said there was no difference between this and a closed record hearing.

Chairman McClain said this would require some rethinking on appeals. The legal staff would be doing the briefing instead of a staff report being done by the Planning staff.

Vice-Chairman Jewell moved to approve the amendment to the administrative appeal process and to direct staff to prepare enabling documents. **Commissioner Crankovich** seconded the motion. Motion carried, 3-0.

Vice-Chairman Jewell moved to continue the public hearing to October 5, 2010 at 10:00 a.m. under Board Discussion and Decision in the

Commissioners Auditorium, with the record being closed. **Commissioner Crankovich** seconded the motion. Motion carried, 3-0.

PUBLIC HEARING

RENEGOTIATION OF CARAVAN LEASE

COMMISSIONERS

At 4:09 p.m. **Chairman McClain** opened the public hearing continued from earlier to consider renegotiation of the lease for the property adjacent to the Permit Center at 409 N Ruby ST. He asked **Mr. Beedle** if he was satisfied with the lease and terms.

Ken Beedle said he was satisfied with a five year lease at \$575 per month.

LEASE

409 NORTH RUBY ST

COMMISSIONERS

Vice-Chairman Jewell moved to approve and sign the lease with Kellen B Properties LLC, for five years at \$575 per month. **Commissioner Crankovich** seconded the motion. Motion carried, 3-0.

PUBLIC HEARING

SIX YEAR TRANSPORTATION PLAN

PUBLIC WORKS

At 4:10 p.m. **Chairman McClain** opened the public hearing to consider the Six Year Transportation Improvement Plan for the years 2011-2016 and the Annual Construction Program for 2011.

Jan Ollivier, Transportation Planner explained that Public Works has held two open houses to receive input and public comment on the Six Year Transportation Plan and Annual Construction Program. One was held in Cle Elum on August 17, 2010 and one was held in Ellensburg on August 19, 2010. Three comments were received in all, mostly expressing support of the Teanaway project. **Ms. Ollivier** said that a number of grants have been received for the 9 major projects listed in the Plan.

Vice-Chairman Jewell asked questions about placing and replacing asphalt structures mentioned in #2 of the Funding Section of the Program Report. **Kirk Holmes, Public Works Director**, said it was an either/or situation.

Commissioner Crankovich suggested in #3 of the Funding Section to word the amount as "not to exceed \$500,000" instead of "\$500,000" and then there won't be the need to amend the plan if it is not needed.

Vice-Chairman Jewell suggested changing from "recreational snowmobilers" to "recreational users" in #7 in the Strategy for Six

Year Plan, as the off street parking it mentioned is not just snowmobilers.

PRESENT AND TESTIFYING: Jill Arango, Cascade Land Conservancy, 409 N Pine ST, Ellensburg, said they had applied for a Scenic Byway grant, but it was denied because Scenic Byways were not in the County Transportation Plan. She asked that it be included so this grant would be available to the County. She said she had talked with staff regarding the wording, etc.

THERE BEING NO ONE REQUESTING TO TESTIFY, THE PUBLIC PORTION OF THE HEARING WAS CLOSED.


Commissioner Crankovich said the County should create a defined program for dust and oil stabilization. **Jan Ollivier** said she thought that was a good idea as well. **Kirk Holmes** added they were trying to be more pro-active on this.

Vice-Chairman Jewell asked if there were any objections to including the Scenic Byways information requested by Cascade land Conservancy. **Ms. Ollivier** said there were no objections and that last year, something from Central Washington University was included because of funding.

Commissioner Crankovich moved to continue the public hearing to October 5, 2010 at 10:00 a.m. under Board Discussion & Decision in the Commissioners Auditorium, with the record closed. **Vice-Chairman Jewell** seconded the motion. Motion carried, 3-0.

The meeting was adjourned at 4:20 p.m.

DEPUTY CLERK OF THE BOARD


Catherine Dunn

KITTITAS COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON


Mark McClain, Chairman