

COMMISSIONERS PROCEEDINGS  
APRIL 7, 2009  
CLARK COUNTY, WASHINGTON

The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Mielke, Stuart, and Boldt, Chair, present.

**2:00 P.M. PUBLIC BID OPENING**

Present at bid opening: Rebecca Tilton, Board of Commissioners Office; Mike Westerman and Laura Pedersen, General Services-Purchasing Department

BID OPENING CRP 400615 – FAIRGROUNDS COMMUNITY PARK

Held a public hearing for Bid Opening CRP 400615 – Fairgrounds Community Park. Mike Westerman, General Services-Purchasing, read bids and stated it was the Purchasing Department's intention to award Bid CRP 400615 on April 14, 2009 at 10:00 a.m. in the Commissioners' hearing room, Public Service Center, 6<sup>th</sup> Floor.

**7:00 P.M.**

PLEDGE OF ALLEGIANCE

The Commissioners conducted the Flag Salute.

BID AWARD 2527 – ANNUAL LEGAL ADVERTISING

Reconvened a public hearing for Bid Award 2527 – Annual Legal Advertising. Mike Westerman, General Services, read a memo recommending award of Bid 2527 to the lowest bidder. Westerman added that on March 13, 1999 the County Administrator, at the direction of the Clark County Board of Commissioners, issued a community outreach policy that stated, in part, that “in an effort to promote better community outreach, the Clark County Board of Commissioners feels it is appropriate and would like to encourage the use of area-specific weekly newspapers, such as The Reflector, The Camas Post, and the Vancouver Business Journal. Those papers should be used in addition to The Columbian when legal notices being made pertain to a specific locale within the general circulation area of the weekly newspaper.” This policy remains in effect to date. Lastly, Westerman noted that the Columbian prices were based on a request from the public to increase the pica size to make the print easier to read; however, if the county elected to choose a smaller size, the prices would remain the same as the previous year.

*Stuart* asked what the difference was between paid and unpaid as far as providing value for getting the word out on projects.

*Westerman* said if it's paid, it's delivered to a location; unpaid means that the paper has to be picked up.

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There being no public comment, **MOVED** by Stuart to award Bid 2527 to The Columbian of Vancouver, Washington, in the total bid amount of \$2.02 per Line Cost 1<sup>st</sup> Insertion and \$1.71 per Line Cost 2<sup>nd</sup> Insertion. Commissioners Boldt, Stuart, and Mielke voted aye. Motion carried.

BID AWARD 2528 – ANNUAL FERTILIZER

Reconvened a public hearing for Bid Award 2528 – Annual Fertilizer. Mike Westerman, General Services, read a memo recommending award of Bid 2528 to the lowest responsive bidder. He added that in 2008 they awarded a three-year fertilizer contract; however, they elected to re-bid due to fuel price fluctuations. Also, to maximize their purchasing power and secure better prices, they partnered with the City of Vancouver to solicit bids. He said based on previous usage, the estimated annual amount was around \$55,000.

*Boldt* wanted to know what a unit was exactly.

*Westerman* said it's the per bag cost, a bag being 50 pounds. He said they also buy it by lots of 1,000 pounds. This price equals all of the units and different types of fertilizer they would be ordering over the life of the contract.

*Boldt* asked for clarification on the unit price.

*Bill Bjerke*, Department of Public Works, explained that if they were to buy one of each item on the contract, that's the total. He said they didn't come up with a total quantity because it seemed to be confusing to the vendors. He added that in 2008 they had an estimated quantity with the stipulation that there was no minimum or maximum amount that they would purchase; however, the supplier blended the entire amount that they, as well as the City of Vancouver, would use.

*Mielke* wanted to know what would happen if they didn't fertilize.

*Bjerke* responded that it would weaken the grass. He said fertilizer is almost as essential as water and they use it in order to keep it healthy and green so it can take the abuse of park use in the summertime. He said their intent this year was to try and reduce water use in some of their General Fund parks. He noted that they do charge an entry fee for most of the regional parks and people would like to see some green grass so perhaps they could fertilize and irrigate the main use sections.

*Mielke* asked Commissioner Boldt if part of this was a grant.

*Boldt* said 35% was from MPD and 65% was from the General Fund.

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*Mielke* said he was afraid that the county would be faced with another round of layoffs and so he felt they should be counting their pennies from every possible direction and doing only the essential things. He wondered if they could get by with skipping a year or two.

*Bjerke* stated that they too want to significantly reduce where they can as far as watering and fertilizing and have talked about cutting back the non-irrigated areas. Also, for General Fund parks they may irrigate 5 acres out of 30 acres and they can try to go without the fertilizer, the only exception being for the sports fields where they have contracts with Salmon Creek Soccer and Hazel Dell Little League.

*Boldt* asked if it would be possible to approve the bid with the condition that the upper limit is the 35% from the MPD, and take no funds from the General Fund.

*Bjerke* said so far they had planned on fertilizing all of the MPD parks, most of which are typically 5-acre parks, with 1-2 acres of each park being fertilized and irrigated. An exception would be Hockinson Park, which is another sports facility that would have a high requirement because nearly the whole site is sand based and would need fertilizer more so than the other parks. He said they could even cut back in the MPD parks in some of the non-critical areas. As far as the General Fund parks they could certainly cut back, but he thought they would need to have a certain amount for the two sports fields, H.B. Fuller and Felida, and it was up to the board as to whether they should try to fertilize even a small portion of their regional parks.

*Stuart* suggested they approve the bid contingent upon staff coming back with a proposal to cut the costs in this area to the board's satisfaction.

*Bjerke* said they could come up with a proposal for cutting the General Fund from 65% down to 20%, or something like that.

*Mielke* asked if the 35% MPD portion would stay in place.

*Boldt* said yes.

There being no public comment, **MOVED** by Stuart to award Bid 2528 to Wilbur Ellis Company of Wilsonville, Oregon, in the total per unit bid amount of \$3,942.81, including Washington State sales tax, contingent upon a future presentation by staff on how to reduce annual fertilizer costs, and also grant authority to the County Administrator to sign all bid related contracts. Commissioners Boldt, Stuart, and Mielke voted aye. Motion carried.

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PUBLIC COMMENT

Speaker #1

*Tim Randall*, Chaplain, Christian Motorcycle Association-Vancouver Chapter, asked the board to consider doing a proclamation for Motorcycle Safety Awareness Week during the last week of April. Mr. Randall provided some information to the board and noted that there was going to be a Motorcycle Gathering event on Saturday, April 25, at 2533 NE Andresen Road, free to the public.

*Boldt* asked Mr. Randall to provide some wording for the proclamation.

*Bill Barron*, County Administrator, said he would work on the proclamation.

*Stuart* agreed it was a good idea for motorcycle riders to go through the courses periodically. He asked Mr. Randall why he chose the month of April.

*Randall* said it seemed like a good time with the arrival of good weather and also in the past there has been a state proclamation made during the month of May. He noted that in the past 10 days there had been 4 motorcycle fatalities in the Portland/Vancouver area.

Speaker #2

*Ron Wilson*, 3305 NE 116<sup>th</sup> Street, Vancouver, member of both the Three Creeks Advisory Board and Team 99, commented on behalf of the Hazel Dell-Salmon Creek Business Association regarding future development of the WSU Agricultural site. Mr. Wilson stated that at the beginning of the year he sent a letter to Commissioner Boldt outlining some of his ideas, as well as the Association's ideas, pertaining to future development. He received a response, which contained the guiding principals of the development. On March 18 he attended the sounding board meeting during which the facilitator stated that the guiding principals were the result of community outreach several years previously. Wilson took exception to that statement and said that around four years ago the number one thing that came out of the meeting was that they wanted something for the site that would cater to the majority of people in the county. Number 8 of the guiding principals says to "integrate a variety of activities and resources that provide community access." He said he would add the word "maximize" to #8, as well as place it at the top. Some ideas that came from that group and process were a community center, possibly ball fields, and a restaurant. Also, while they want to preserve agriculture and its history at the site, they also want much more than that; however, the renditions he has seen for potential development are dominated by agriculture. In terms of proposing a commercial warehouse for food distribution, he said that wasn't something that came out of the meeting and he didn't see how that would meet the principals. They felt there were other sites better suited for a food bank. Lastly, Wilson said he was most bothered by the process of this. He felt if it has been decided that there is going to be a food bank, it should already be in The Columbian and if the decision has already been made then they shouldn't be asking for input.

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*Boldt* asked Mr. McCauley about the next meeting.

*Mark McCauley*, Director, General Services, said they would be holding the first public open house in a work shop format on April 9, 6:00 p.m., at Gaiser Middle School. He said they would take all ideas and post them on the web site. He noted that they are following the guiding principals as provided by the board and if they needed to modify them, they could do so at the board's guidance.

*Boldt* said the difficulty was that 6 or 7 years ago when the JD White Company was formed to do a master plan for the site, it was contingent upon the legislature giving them 6.5 million to move the site. That didn't come forward and they have entered into an agreement to get the site for nothing but an agreement.

*McCauley* said they did get the site from WSU for a handshake and agreement. They were interested in maintaining the agricultural aspects of the property and consented to turn the property over to the county.

Speaker #3

*Dellan Redjou*, Smokey's Pizza, commented on the WSU Ag site. She said as a member of the Business Association, they see that property as something that should and can become a focal point for the north Clark County area. The property has the opportunity to be a gathering place and tourist attraction, an economic draw for the area; however, they didn't believe that what they were seeing in the visionary process was going to fulfill that requirement. She said to her knowledge the vision that has been proposed was not brought forth to the Business Association or the neighborhood associations and it doesn't fit with what they see as a huge draw for their area. Ms. Redjou stated that there were a lot of things they could do, such as a farmer's market, a wine tasting area, a restaurant that utilizes products from the farmer's market, but putting a food bank in that area would be a huge waste of prime area and there are several other areas that would be better.

Speaker #4

*Eric McGrady*, Orchards, commented about the current rise in unemployment and people sneaking into the county illegally and taking jobs from legal residents. Mr. McGrady proposed an ordinance requiring businesses that apply for licenses to use the E-Verify system, which is 98.5% accurate for determining whether someone is in the country/county legally. He also commented about allowing signature gathering by citizens, which is not presently allowed by Clark County. McGrady asked if there was a way to change that by doing a new home charter as other counties have done. He noted that six other counties in Washington state are allowed to gather signatures.

*Stuart* asked if that signature gathering would be for petitions that would go to referendums.

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*McGrady* said yes.

Speaker #5

*Deston Denniston*, Abundance Consulting, stated that his company put out the technical advisory committee (TAC) process for the 78<sup>th</sup> Street site. Mr. Denniston thanked the Hazel Dell Business Association for being keen on the idea of having a visionary site that could promote a lot of the values that have been discussed in other areas of the county's work, including the sustainability policy and the kinds of issues that were brought up during the [APAC] work that showed all of the issues they have with food security in the county. Also, there are a number of other issues in the county, including unemployment. He stated that the opportunities at the 78<sup>th</sup> Street site are huge and they have outlined a strategy in the TAC report that could employ over 50 people at the site; would require very little funding from the county through the use of grants and leveraging of funds with partners; has the potential for having a regional and national draw for tourism and education value in partnership with WSU. In terms of what could be achieved on that site using the knowledge of local farmers, Denniston said there are projects documented that show you can produce \$40,000-\$80,000 an acre per year doing agriculture project of the kind that are proposed in the TAC, while having an educational resource, a community resource for recreation activities, and a really well built community platform for having engagement with local citizens. He said he thought there was a huge potential to move forward with a project that would set a national standard.

Speaker #6

*Bridget Schwarz*, 2110 NW 179<sup>th</sup> Street, Ridgefield, provided the board with a booklet for the upcoming Neighborhoods, USA (NUSA) conference. Ms. Schwarz then commented that the site at 78<sup>th</sup> Street has a long history of agricultural application and that big farms are out and small farms are where the growth and economic opportunity are. She said she attended a seminar called "Women Farmers" presented by the WSU Extension. She said it was one of seven meetings held around the state and while the other meetings were attended by 7-10 people, the one at WSUV was attended by 35. She said farming and gardening have a substantial contribution to make economically and was an emerging model that would be increasingly important for a sustainable Clark County.

Speaker #7

*Ila Stanek*, 500 NW Wilder Drive, Secretary of Team 99, commented on the WSU Agricultural site. She said the Business Association and Team 99 were not anti-agriculture and understood that the majority of the site needs to be agriculture; however, they just wanted a small piece along 78<sup>th</sup> Street that doesn't have a food bank. Ms. Stanek said they've been given the example of the Mother Earth Farm in Puyallup, which works with a food distribution center in Lakewood—not on the same site. She asked Commissioner Boldt if he had seen the set up in Puyallup and Lakewood.

*Boldt* said the 78<sup>th</sup> Street site wouldn't be like Puyallup and Lakewood.

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*Stanek* said it's all about location and the food bank could be put somewhere else.

Speaker #8

*Sharon Nasset*, 1113 North Baldwin, Portland, Oregon, stated that she was impressed that the board was now holding night hearings for the constituents. Ms. Nasset then commented on the Columbia River Crossing rally that took place on Sunday at Waterfront Park in Portland. She noted that the next rally would take place in Vancouver. She stated that approximately 500 attended and 4 elected officials spoke. She further explained. She said it was a coalition and it wasn't just that they don't want the 12 lanes, but that the project is too expensive, doesn't meet the goals, and they have been steamrolled. She said the Columbia River Crossing project has died, but just hasn't lied down. She said she hoped that because the board served on two boards directing it would contact the Federal government and have a representative come and speak to the bodies of C-Tran and RTC to let them know their responsibilities as a sponsoring agency, the powers they have and the process of checking what their oversight and control really is.

CONSENT AGENDA

*Boldt* noted that they would pull item 2 (agreement to rescind the Cowlitz Tribe MOU) for discussion.

There being no public comment, **MOVED** by Stuart to pull consent agenda item 2 for discussion and approve items 1 and 3 through 10. Commissioners Boldt, Stuart, and Mielke voted aye. Motion carried.

*Boldt* asked Curt Wyrick for a brief description.

*Curt Wyrick*, Prosecuting Attorney's Office, explained that in March of 2004 the Cowlitz Tribe and the County entered into a Memorandum of Understanding regarding the 151.87 acres near the La Center exit. Since that time, they've been to the Court of Appeals twice, the GMA Board twice, and a couple of Superior Courts on challenges to the MOU. Currently, the Growth Management Board has determined the MOU to be non-GMA compliant, which has resulted in Community Trade and Economic Development and the Growth Management Board basically freezing Public Works Trust Fund monies so the county does not have access for needed funds to work on road projects. In addition, just recently the Supreme Court ruled that the Secretary of the Interior was without authority to take land into trust for tribes that were "not now under Federal jurisdiction" and ruled that meant tribes in 1934. He said it wasn't determinative of what they are doing, but it was just another issue that faces the Cowlitz Tribe in their process. Wyrick said they could not unilaterally rescind the MOU, but did discuss with the tribe a mutual rescission, which they agreed to discuss and take to their tribal council. He explained that the rescission agreement before the board simply rescinds the MOU. It recognizes and incorporates some language that they had sent in a letter to the Department of the Interior so it's nothing new that is written, but just makes reference to tribal ordinances that the

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National Indian Gaming Commission has incorporated into their process, which they are not a part of; it's just something unilaterally that was done. So the request on the consent is for the board to rescind the MOU and we do that mutually with the tribe, who I believe has already taken action to their tribal council.

*Boldt* asked if there were questions.

*Stuart* asked *Wyrick* to explain why they needed to have a mutually agreed upon rescission.

*Wyrick* said that simply withdrawing the appeal would leave the Growth Management decision in full force and effect, which would mean that the MOU did not go away. So just dismissing the appeal would not take care of the legal problem, which is the non-compliance that the GMA Board found. He said the GMA Board told them that they would either need to go back through a full public participation piece or rescind the MOU. The parties agreed that rescission of the MOU was the most expeditious and reasonable way to deal with the county's funding issue through CTED.

*Boldt* said the agreement states that essentially the county will rely on the tribe's promise contained in the ordinances.

*Wyrick* said the second to last paragraph was taken from the letter.

*Boldt* asked if he recalled the date of the letter.

*Wyrick* said the latest letter was dated February 5, 2008.

*Boldt* asked if there were any comments.

*Mielke* said he had concerns about what the courts can do today. He said in 1934 they said anybody who wasn't a recognized tribe now may not be a recognized tribe and before that they had a definition of "is" and now they have the phrase "will rely on." He said his fear was that this might come to the conclusion of understanding that they are replacing Clark County's MOU with the tribal ordinance that mirrors the MOU. He said he wished they had gone back to hear what they did with legislation; to start off with more of an intent and purpose to what they would hopefully achieve, such as removing, with agreement from the Cowlitz Tribe, Clark County's MOU. *Mielke* said he also had concerns that if they were in agreement with the Cowlitz Tribe MOU, they could still be found non-compliant because they have an agreement of sorts with Growth Management and he wished they had included an Intent and Purpose.

*Stuart* stated that there is one "therefore" in the agreement that the MOU as it existed is rescinded and his feeling, and he thought the feeling of the board, was that there would be no negotiations toward a new MOU. He said that took him where he wanted to be.

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*Boldt* said he would also be voting in favor of the agreement. He said the board has made their comments abundantly clear in the EIS process. Also, they have written letters in the past that affirm the ordinance and, as you said, it's really the last paragraph that counts now and then it is hopefully up to the Federal government, which he hoped would step up so that they wouldn't be the target all the time.

**MOVED** by Stuart to approve consent agenda item 2 – Agreement to rescind the Memorandum of Understanding with the Cowlitz Tribe. Commissioners Boldt and Stuart voted aye. Commissioner Mielke voted nay. Motion carried.

*Boldt* asked *Wyrick* to explain what would happen next.

*Wyrick* said they have prepared a motion to the Court of Appeals to dismiss the pending appeal, which was a challenge to the Growth Management Hearings Board. Then there would be a motion to the Growth Management Hearings Board to find Clark County in compliance since the directions in their last Non-Compliance Order was that the county had to either reinstitute the public participation in a more meaningful way or rescind the MOU.

COMMISSIONER COMMUNICATIONS

There were no commissioner comments.

*Adjourned*

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BOARD OF COUNTY COMMISSIONERS

  
Marc Boldt, Chair

Steve Stuart, Commissioner

  
Tom Mielke, Commissioner

ATTEST:

  
Clerk of the Board — **Deputy**

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