

BENTON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
March 15, 2016

The Benton County Board of Commissioners met in regular session on March 15, 2016 in the Benton County Board Room in Foley, MN with Commissioners Jake Bauerly, Ed Popp, Spencer Buerkle and Warren Peschl present and Commissioner Jim McMahon absent (excused). Call to order by Chair Buerkle was at 9:00 AM followed by the Pledge of Allegiance to the flag.

Peschl/Popp unanimous to approve the agenda as written.

Vern Heise (19226 Deerwood Road, Clearwater, MN) was present to speak under Open Forum, stating that he is the owner of the property west of Foley for which there is interest in establishing a community solar garden. Heise stated his belief that this property (at the intersection of TH 23 and CSAH 4) is not suitable for high-traffic development, but is a “perfect” site for a community solar garden. He stated his understanding that the City of Foley is opposed to use of this property for a community solar garden because it may be desirable for future development. Heise stated his opinion that city expansion would not occur at this site in the next 25 years, and it is his desire that it should develop as a community solar garden.

Popp/Bauerly unanimous to approve the Consent Agenda: 1) approve the Regular Meeting Minutes of March 1, 2016 as written; 2) accept and file Committee of the Whole Minutes of February 23, 2016 as written; 3) accept and file Committee of the Whole Minutes of March 3, 2016 as written; 4) approve tax abatement for parcel 06.00083.00; 5) approve Application for Exempt Permit for *St. Elizabeth’s Church* to conduct bingo, raffle and pull tabs on June 26, 2016; 6) approve Application for Exempt Permit for *Royals Wrestling Club* to conduct paddliewheels, pull tabs, tipboards and raffle on July 28-30, 2016 at Henry’s Farm Market, Royalton; 7) approve Application for Exempt Permit for *Turn in Poachers Brainerd Banquet* to conduct a raffle on April 16, 2016 at Jack & Jim’s; 8) approve Application for Exempt Permit for *Tanner’s Team Foundation* to conduct a raffle on June 6, 2016 at Wapicada Golf Club; 9) adopt Resolution 2016-#6, approving application of *St. Lawrence Church* to conduct off-site gambling (bingo and raffle) on July 4, 2016, and authorize the Chair to sign; and 10) approve Special Road Use Permit—*Heritage Day Parade*—March 19, 2016 in the City of Rice, and authorize the Chair to sign.

Representatives from Foley Area CARE and Foley C.R.O.S.S. Center were present to receive funds that were raised as part of the Benton County employee holiday party; this year the employees donated a total of \$1,502.00 with \$751.00 going to each charity.

Dave Mosford, Mayor of the City of Foley (315 Maple Drive, Foley) appeared before the Board to address the potential development of a site west of Foley, at the intersection of TH 23 and CSAH 4, for a community solar garden. Mosford stated his belief that this property is a prime area for retail business “five or ten years down the road”; the city is not opposed to expanding city services to the west. He explained that retail business would be a better asset for the county as far as real estate taxes, noting that, as a solar garden, some of the equipment is tax exempt.

Jim McDermott, Emergency Management Director, was present to provide an update of current Emergency Management activities: Rampage School Shooter Training, Flood Outlook, Mitigation Grant, Radiological Emergency Preparedness Exercise, IPAWS (New Statewide Alert System), Pipeline and Oil Train, Emergency Operations Plan Review.

The Regular County Board meeting was recessed at 9:22 AM to conduct a Human Services Board meeting.

The Regular County Board meeting was reconvened at 9:36 AM.

Lee Katzmarek, Human Resources Director, explained that an Eligibility Specialist in Human Services is currently on a 60-day leave (through 4/26) and not expected to return; with two additional Eligibility Specialist openings approaching and a heavy workload for remaining staff, the department would like to move ahead in finding a replacement for the employee on leave. Peschl/Popp unanimous to authorize filling the Eligibility Specialist position for the employee currently on leave.

A public hearing to consider Ordinance #455, amending the Benton County Development Code Ordinance, to allow “Solar Energy Systems” within the Benton County Development Code, was opened at 9:39 AM. Joe Janish, Department of Development Director, explained that this ordinance amendment would allow for larger solar projects to be an Interim Use Permit in the Agricultural and Rural Agricultural zoned districts (a minimum time frame of 25 years; if the project becomes part of a city through an annexation process or orderly annexation process and a joint planning board is established, that planning authority would be able to either re-permit the facility or not permit the facility after the 25-year time frame), and would also allow for accessory solar energy systems, for onsite use only, in many zoning districts. Janish noted that, on February 11, 2016, the Planning Commission provided a positive recommendation to the County Board related to the ordinance; the ordinance language addresses details such as wetlands, permit application requirements/criteria, setbacks, flood plain, site plan, and decommissioning plan (county may require some type of financial guarantee to ensure proper decommissioning). Janish also spoke of the potential tax base generated by solar energy systems as compared to homestead agricultural or non-homestead/rural vacant land. He clarified that, at this time, no application for a solar energy system for a specific site has been received as the current ordinance does not allow for such. Peschl commented that Benton County is an agricultural county and felt that solar gardens should be placed so as not to disturb agricultural land. Speaking in favor of the proposed ordinance was Tena Monson with *Geronimo Energy*. She stated her belief that the ordinance is fair and thorough, acknowledging that each application/project for a solar farm may have its own unique concerns/characteristics. Monson stated that Geronimo Energy is actively working with the City of Foley to address their concerns. She noted that solar gardens are a low impact development where the site can be reused for other types of development, very similar to a conversion to CRP. Also speaking in favor was Vern Heise (19226 Deerwood Road, Clearwater), owner of property west of Foley where a community solar garden is being considered. He indicated that this site is fairly marginal farm land, relatively small in size (12-3/4 acres) with a high water table. Heise stated his belief that it will be 25-30 years before the city would expand to this area. Robert Barbian, Foley City Administrator, stated he is in favor of establishing an ordinance/ interim use permit, but asked for consideration in where the interim ordinance allows solar gardens. He commented that Highway 23 is a tremendous economic asset and feels the need for “higher value” uses at its intersections. Barbian noted that sewer and water are very close by (to the Highway 23/CSAH 4 intersection). At this time, Janish clarified that Benton County has not proactively zoned any property along Highway 23 for business/commercial for a major stretch; the county does allow for several types of businesses as a conditional use in the agricultural district. He added that the county comprehensive plan references “urban growth areas”—areas which would potentially go to a city (the next step would be for the city to establish an orderly annexation agreement to address this area as well). Bauerly commented that, perhaps, these four major intersections which are between Foley and St. Cloud should be identified for economic development opportunities. Speaking in favor of the proposed ordinance was Duane Hebert with *Novel Energy Solutions*, who was

present on behalf of a property owner in Benton County who is interested in looking at a solar garden on his property. Hebert explained that his company is aware of the issues surrounding farm land; these facilities are easily decommissioned and maintain the underlying nature of the land itself. Hebert stated that the plantings they establish actually create a better storm water control than traditional row cropping. Hebert stated his belief that the proposed ordinance is designed to not only protect the citizens/neighbors/community, but also to allow proper development/opportunities. Janish summarized a handout which was received by Dave Mosford, Mayor of Foley, which read as follows: *"I think it is a good goal to establish and develop solar gardens in the County. I believe with good placement the gardens can be an asset to us all. I wish to raise discussion and consideration on what makes for good placement of a solar garden. In particular, are highway intersections a good place for solar gardens? Following is an illustration of value and return: (several examples—Short Stop SA Gas Station in Minden Township and Silt Sock site in the City of Foley—are provided); Compare to: (an example of a solar garden on 12.75 acres at the intersection of Highway 23/CR 4 is provided) I think with the County, City and Township working together we can do better. The intersection has water and sewer in close proximity to the site... Sites developed in the water and sewer service areas that do not need sewer and water make it more costly for other sites to be developed. This is due to the cost of the sewer and water having to be distributed over fewer properties. The proposed site is along a planned water and sewer main route."* With no one else speaking in support or in opposition, the public hearing was closed at 10:07 AM. Peschl asked if the City of Foley could annex this property if they desired to preserve it. Janish stated there is a possibility that the City of Foley and Gilmanton Township (or any adjacent township) could establish an orderly annexation agreement; the language in that agreement would determine how the zoning is regulated in that area. Popp asked if the proposed ordinance would address financial guarantees for the decommissioning of large scale solar farms as well. Janish clarified that this would be addressed in the interim use permit which is issued by the Planning Commission; the County Board would not take action on particular sites. Bauerly inquired if the proposed ordinance can be modified at this point to address the concerns that cities may have (i.e. identify major intersections outside orderly annexation areas as economic development opportunities). Michelle Meyer, Assistant County Attorney, stated that, per MN Statute 394, all like properties must be treated similar; i.e. specific restrictions cannot be attached to certain types of agricultural property that differ from other agricultural property. Meyer stated the options of rezoning properties along Highway 23 or creation of a joint planning board to protect the cities' interest. Referring to the Highway 23 "economic corridor", Bauerly stated his belief that rezoning of those intersections might be in order. Janish pointed out that an amendment to the comprehensive plan would be required in order to change those zoning classifications. Popp noted that there are some large solar gardens on the horizon—delaying the ordinance could hinder interest in solar development; however, the presence of a large solar garden could be a hindrance to economic development nearby. Following brief discussion, motion by Peschl to approve Ordinance #455 and authorize the Chair to sign. Second by Popp for discussion. Janish clarified that this ordinance establishes the process/regulations; however, the Planning Commission will be the entity to evaluate individual applications for interim use permits as the sites are proposed (will be an opportunity for individuals to express specific comments/concerns). Bauerly commented "it's just disappointing that the two solar sites that they've sited in Benton County have both been in prime retail or commercial areas...because I'm leading the economic development effort, I'll be abstaining on this vote". The motion on the floor failed with Peschl voting aye, Buerkle and Popp voting nay, and Bauerly abstaining from the vote.

A public hearing to consider Ordinance #456, amending the Benton County Development Code Ordinance, to reduce the requirement of a lot width to depth ratio in the Agricultural and Rural Agricultural Districts, was opened at 10:22 AM. Joe Janish stated that this lot width to depth ratio

applies to lots less than 40 acres (current ordinance states that depth cannot be greater than 2.5 times the width); surrounding counties do not have a width to depth ratio. He explained that staff was originally concerned that removal of the ratio requirement might create an issue with the county's driveway spacing guidelines; however, it is felt that the county's access policy will guide the distance between, and number of, access points (the road authority determines the access location). With no one speaking in support or in opposition to the proposed ordinance, the public hearing was closed at 10:32 AM. Bauerly/Peschl unanimous to approve Ordinance #456, amending the Benton County Development Code Ordinance, to reduce the requirement of a lot width to depth ratio in the Agricultural and Rural Agricultural Districts, as recommended by the Planning Commission, and authorize the Chair to sign.

A public hearing to consider 2016 Solid Waste Facility Licenses for *Waste Management, Republic Services (Minden Transfer Station), Henkemeyer Landfill Inc. and Tri-County Organics LLC* was opened at 10:33 AM. Mark McNamara, Department of Development, explained that he has conducted site inspections of all four facilities; all are in good standing with MPCA. McNamara stated that, in the prior year, the Board has required Minden Transfer Station, Waste Management, and Tri-County Organics LLC to provide \$1.5 million in liability insurance and a \$10,000 bond; Henkemeyer Landfill was not required to carry the bond, but was paying into the test well monitoring, closure and post-closure contingency fund as allowed by statute. McNamara noted that Henkemeyer Landfill is close to the maximum amount allowed to be paid into this fund (have paid in about \$108,000 of the maximum allowed \$112,000); he would recommend that this practice continue in 2016 and, perhaps, require a bond in future years. No one was present to speak in support or in opposition, the public hearing was closed at 10:40 AM. Peschl/Popp unanimous to approve 2016 Solid Waste Facility Licenses for *Waste Management, Republic Services (Minden Transfer Station), Henkemeyer Landfill Inc. and Tri-County Organics LLC* (maintaining the status quo as far as surety bond, insurance and contribution to test well monitoring, closure and post-closure contingency fund), and authorize the Chair to sign.

Troy Heck, County Sheriff, presented his 2015 annual report; report highlights: Dispatch Services (26,760 Initial Complaint Reports generated; transitioned to VIPER telephone system); Civil Process/Warrant Division (958 requests to serve civil process; conducted 54 mortgage foreclosure sales; 1,338 arrest warrants received); Patrol Division (13,850 Initiation Complaint Reports were assigned to units; traffic stops were the single largest category of activity; five most reported crimes were theft, fraud, DUI, harassment and domestic abuse); Investigative Division (153 cases assigned with a 79% clearance rate); Jail Division (continued trend of increased inmate population—average daily population of 72.34 inmates; booked in a total of 1968 inmates (1,554 males and 414 females); average length of inmate stay was 12.19 days; over \$59,000 in fees collected for booking, work release and daily boarding; over \$384,000 collected in jail revenues from prisoner boarding for other agencies; Sentencing to Service crew had 58 inmates and worked a total of 5,364 hours on projects/worked off \$11,331 in fines and over 670 jail days); Tobacco Compliance Checks (10 businesses passed, 5 businesses failed); Volunteers (Mounted Patrol worked 922 hours; Reserve Deputies performed 448.75 hours; volunteers performed 1,456 hours of work in programs in the jail); Public Outreach (several deputies became instructors for youth snowmobile safety courses and youth ATV safety courses; 420 DARE students in five Benton County Schools were presented the DARE curriculum); and Social Media (started both a Twitter and Facebook account). Buerkle requested a report on the Violent Offender Task Force (drug/gang activity) in the future.

Chris Byrd, County Engineer, explained that, due to the continued unsuccessful recruitment of an Engineering Technician, two new position descriptions have been created (Civil Engineering Technician

(with lower minimum qualifications) and Senior Civil Engineering Technician). He stated that the Public Works Department would like to advertise both positions and recruit for either one; the placement into the appropriate position would be determined by qualifications. Peschl/Popp unanimous to close the current advertisement/recruitment for Engineering Technician and advertise both the new Engineering Technician (Grade 8) position and Senior Engineering Technician (Grade 9) position, placing the successful candidate in either position, based on qualifications and determined by the department head. Also approval to place any current Engineering Technicians at either Grade 8 (Engineering Technician) or Grade 9 (Senior Engineering Technician) depending on qualifications and determined by the department head, with salary placement falling at whatever step is closest to current pay and does not result in a salary decrease.

Engineer's Report: 1) Presented on the CSAH 3 project at the MN Transportation Conference in St. Paul; 2) Attended AMC Legislative Conference--a resolution was adopted to oppose any change in current legislation regarding county highway turn backs (proposed legislation from the township association would be in direct conflict to the County Board's goal for the Highway Department to identify roads in our county that don't serve a county purpose anymore for possible turn back); and 3) March 18th Transportation Regional Meeting hosted by AMC.

Monty Headley, County Administrator, explained that counties are required by the State to provide legal representation to parents involved in CHIPS ("child in need of protection or services") and TPR ("terminating parental rights") cases. He indicated that, up to this point, the County has paid a fixed rate per case assigned to qualified attorneys; the proposed contracts move to a fixed annual payment (paid monthly) that will not vary with caseload. Headley stated that four attorneys (Cathleen Gabriel, Adam Brainard, Amy Chantry and Sam Young) currently provide this service to parents in Benton County Courts; the total fixed cost for all four agreements is approximately equal to what the County paid in 2015, but may provide some relief from the cost of increased caseload, plus a reduction in the number of payments made to attorneys. Bauerly inquired if these contracts should go through a bid process. Headley noted that these services are very specialized with few attorneys qualified to provide this representation. Popp/Peschl unanimous to approve two-year agreements with Attorneys Adam Brainard, Amy Chantry, Sam Young and Cathleen Gabriel (the appeal provision will be removed from the Sam Young contract), effective April 1, 2016, for CHIPS and TPR representation, and authorize the Chair to sign.

Bauerly/Popp unanimous to adopt a County Vision and Mission Statement as follows:

Benton County Vision: "Benton County strives to deliver efficient and effective services that will improve the lives of our residents, doing so in a fiscally responsible way."

Benton County Mission:

- *Provide excellent service*
- *Make Benton County a great place to live and work, a great place to call home*
- *Help our business community prosper*
- *Keep the cost of government down through innovation, collaboration and technology*

Headley noted that all department heads will be asked to review, or create, their own departmental mission statement, using the county mission statement as a guide.

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

Under Commissioner Concerns, Peschl commented that, during the budget process, the Board denied a request by the Department of Development for funding to complete an update of the comprehensive

plan. He spoke in support of moving forward with completion of the plan. Bauerly stated his belief that those major intersections between Foley and St. Cloud need to be protected.

Under Commissioner Concerns, Popp reported on his visit to a number of townships to discuss the economic development efforts currently underway; several townships are quite concerned with the finished product of CR 78 due to the amount of traffic on that roadway.

Peschl/Popp unanimous to set Committees of the Whole: March 18, Transportation Regional Meeting Hosted by AMC; March 31, Discuss Employee "Wellness" with Corporate Health Systems Staff; April 7, Economic Development Workgroup; and April 13, Joint Meeting with Planning Commission.

Popp/Peschl unanimous to adjourn at 11:27 AM.

Spencer C. Buerkle, Chair
Benton County Board of Commissioners

ATTEST:

Montgomery Headley
Benton County Administrator