

Minutes for January 17, 2006

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064996 THE BOARD OF WHITMAN COUNTY COMMISSIONERS met in their Chambers in the Whitman County Courthouse, Colfax, Washington for **January 17, 2006** at **9:00 a.m.** G.R. Finch, Chairman, Greg Partch and Les Wigen, Commissioners and Maribeth Becker, CMC, Clerk of the Board attended.

9:00 a.m. - Call to Order/Board Business/BOCC Workshop.

Present: Bev Welch, Sharon Roberts and Sharron Cunningham.

064997 1. Items discussed included grant data forms, biodiesel request, Parks computer request, weekend use of county buildings and E-Waste recycling. No action taken.

9:30 a.m. - Recess.

10:00 a.m. - Pledge of Allegiance.

Present: Adam Roberts.

D064997A 2. Motion by Commissioner Wigen to approve the consent agenda. Motion **seconded** by Commissioner Partch and **carried**.

064998 3. Claims/Payroll warrants numbered **186170, 186173-186331** and **186346-186368** for **\$534,954.77** approved.

FUND	FUND NAME	AMOUNT	AMOUNT	AMOUNT	AMOUNT
001	Current Expense	40,199.77	7,935.20	96,075.69	40,155.86
102	Building & Development	1,211.20			1,574.50
103	Countywide Planning	1,178.80			1,678.47
104	Developmental Services				91.30
110	County Roads	14,453.60	5,000.00	20.52	3,280.12
118	Inmate Welfare			22.65	997.71
119	Emergency Services				9,683.07
123	Paths & Trails			160.00	114.18
126	Treasurer's M&O				364.92
137	Web Site Development				19.00
138	Federal Equitable Sharing				4,703.62
300	Capital Projects 300.010.001				1,014.66
300	Capital Projects 300.310.001			.28	
300	Capital Projects 300.010.003	79,081.77			10.74
400	Solid Waste	3,800.40		1,081.77	4,948.07
501	Equipment Rental & Revolving	4,544.80	450.00	91.55	205,321.56
510	Photocopier Revolving				278.97
660	Whitcom-Grant 660.911.001				5,410.03

064999 4. January 9, 2005 minutes approved.

BOCC MINUTES-01/17/06

065000-065005 5. Personnel board orders approved.

10:10 a.m. - Bev Welch and Thinkh Nguyen.

065006 6. Commissioner Wigen **moved**, Commissioner Partch **seconded** the motion and it **carried** to authorize publishing notice of a budget amendment hearing on January 30th at 10:30 a.m.

065007 7. Commissioner Partch **moved**, Commissioner Wigen **seconded** the motion and it **carried** to restrict the use of meeting rooms in the Courthouse and Public Service Building on the weekends (for energy efficiency purposes).

065008 8. An excerpt from the 01/09/06 commissioners' minutes were forwarded to Fran Martin concerning the transfer of bill paying and other financial operations for the Community Education Training Center (CETC).

065009 9. Adam Roberts shared copies of the workstation requirements for users of the new financial system. Over the next week, Mr. Roberts will be assessing the computers for all financial system users to determine if upgrades or new computers will be necessary to meet the requirements. The Administrative Services Director has already made the financial changes to accommodate the requirements. Mr. Roberts suggested the county meet at least half the requirements rather than the total recommended requirements. Next week he will bring the Board a list of necessary upgrades for all users. Chairman Finch said the Board knew there would be additional hardware requirements because of the new system.

065010 10. Commissioner Wigen **moved**, Commissioner Partch **seconded** the motion and it **carried** to deny the Parks Department Asset Acquisition request for a new laptop computer.

065011 11. Commissioner Partch **moved**, Commissioner Wigen **seconded** the motion and it **carried** to approve a \$5,000 request by the Whitman Conservation District for an oilseed project (SARE's grant matching funds deducted from Commissioners' fund).

065012 12. Commissioner Partch **moved**, Commissioner Wigen **seconded** the motion and it **carried** to sign a letter to the 9th district legislators supporting electronic waste recycling legislation.

065013 13. A letter was received from Christopher B. Crider regarding his years of service on the Planning Commission and their accomplishments. In addition, Mr. Crider did not wish reappointment due to family obligations. Commissioner Partch forwarded Mr. Crider a personal note of appreciation.

065014 14. Copies of comments received from the Planning Commission's countywide meetings held in 1995 regarding agricultural and rural

BOCC MINUTES-01/17/06

residential districts was received from the Planning Department. Commissioner Partch said this shows these issues have in fact been discussed for numerous years causing the criticisms to be very unfair.

D065014A 15. Commissioners' pending list reviewed.

10:30 a.m. - Denis Tracy, County Prosecutor.

D065014B 16. Commissioner Partch **moved**, Commissioner Wigen **seconded** the motion and it **carried** to go into executive session with the above individual until 11:00 a.m. for litigation issues.

11:00 a.m. - Return to Open Session.

11:05 a.m. - Dane Dunford, Public Works Director.

Present: Mark Storey, Thinh Nguyen and Megan Doyle.

Action Items:

065015 1. Commissioner Partch **moved**, Commissioner Wigen **seconded** the motion and it **carried** to publish the notice of call for bids for four regular cab pick-ups (Road Dept.) and one extended cab pick-up (Engineering).

065016 2. Commissioner Wigen **moved**, Commissioner Partch **seconded** the motion and it **carried** that the resolution to initiate a county road project for the Harlan Bridge be signed as presented.

RESOLUTION NO. 065016

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF WHITMAN COUNTY, WASHINGTON

In the matter of initiating a county road bridge project designated as C.R.B.P. No. 1300-09.67(9), Project No. XFB60.

IT IS HEREBY RESOLVED that the Harlan Bridge, County Bridge No. 1300-09.67(9) be improved as follows:

This contract provides for the replacement of the Harlan Bridge with a 32-foot wide, 70-foot long concrete bridge.

This project is hereby declared to be a public necessity and the County Engineer is hereby ordered and authorized to report and proceed thereon as by law provided (RCW 36.75.050, 36.80.030, 36.80.070)

IT IS FURTHER RESOLVED that an appropriation from the official adopted county road fund budget and based on the County Engineer's estimate is hereby made in the amounts and for the purposes shown:

BOCC MINUTES-01/17/06

PURPOSE	AMOUNT OF APPROPRIATION
Engineering (PE & CE)	\$110,000.00
Right-of-Way	2,000.00
Contract	<u>520,000.00</u>
TOTAL	\$632,000.00

This project was included in the official adopted annual road program as Item No. 13.

IT IS FURTHER RESOLVED that the construction is to be accomplished by contract in accordance with RCW 36.77.020 et. seq.

ESTIMATED date of commencing work: June 1, 2007
ESTIMATED date of completing work: October 15, 2007

ADOPTED this 17th day of January 2006.

BOARD OF COUNTY COMMISSIONERS
OF WHITMAN COUNTY, WASHINGTON

G.R. Finch, Chairman

Greg Partch, Commissioner

ATTEST:

Maribeth Becker, CMC
Clerk of the Board

Les Wigen, Commissioner

Administrative Division:

D065016A 3. Over the next couple months Public Works will be calling for bids for the annual purchase of vehicles, lumber, steel, liquid asphalt, gravel and various project bids.

Engineering Division:

D065016B 4. Mr. Storey gave an update on the Almota Road project. The Engineering Department hopes to complete all right-of-way acquisition work sometime in February for submission to the state for approval to call for bids in the spring.

Maintenance Division:

D065016C 5. Public Works will be authorizing some restricted road permits, but no authorization for numerous loads.

11:15 a.m. - Recess.

11:30 a.m. - Sharron Cunningham, Administrative Services.

BOCC MINUTES-01/17/06

Present: Bev Welch, Janet Schmidt, Kelli Campbell, Kim Kopf, Dane Dunford, Mark Storey, Bob Lothspeich, Thinh Nguyen and Megan Doyle.

The following individuals contacted the Clerk of the Board regarding their absence from today's meeting: Peggy Wright, Tim Myers, Eunice Coker and Joe Reynolds.

D065016D A financial briefing provided by Ms. Cunningham and Chairman Finch.

12:00 p.m. - Recess.

2:10 p.m. - Board of Health

Present: Fran Martin, John Skyles, Denis Tracy and Reshad Kazimee, owner of Munchy's Restaurant in Pullman.

1. On November 8th the voters approved Initiative 901 prohibiting smoking in public places and places of employment. The Health Department is responsible for business owners and facilities and law enforcement is responsible for individual smokers. Reshad Kazimee is the owner of Munchy's Hookah Bar in Pullman that uses flavored tobacco in hookahs. According to the opinions of lawmakers, a Hookah Bar is considered a non-smoking establishment. The Department tried to find an area within the law to help Mr. Kazimee but the initiative does not give them the authority to do anything more than recognize the 25' distance criteria using the adopted procedures. The owner has been advised staff's decision can be appealed to the Board of Health and that is the reason for this meeting.

2:15 p.m. - Denis Tracy, Tammy Cochran and Dr. Moody.

065017-065018 Mr. Kazimee distributed copies of Initiative 901 and a 2005 brochure about his business. He said Munchy's has been in existence since August 2001. It is a very popular gathering place among students at least 18 years of age where water pipes (hookahs) are used to smoke flavored tobacco noting most major cities have Hookah Bars. On November 8th, the people voted I-901 in and the law took effect December 8th. Since that time, he has experienced major impacts to his business.

In order to be compliant with the law, Mr. Kazimee said he developed an alternative to operate his business as a private club, allowable by the law, beginning at 5 p.m. on the weekdays and 3 p.m. on the weekends during which times Munchy's would only be open to members. No employees would be working, only volunteer members. All volunteers serving food would have to possess a food handler's permit. He has created private membership cards at the cost of \$2/year that must be shown at the door. During public business hours, smoking would not be allowed, but they would continue to serve food and beverages and sell flavored tobacco, Hookahs, etc. Mr. Kazimee

BOCC MINUTES-01/17/06

requested the Board's approval to operate his business as a private club during certain hours.

When asked by Commissioner Partch if Mr. Kazimee has talked to other Hookah Bar owners to see what they are doing he said the majority are creating private clubs. He is also working with the local legislators on a possible exemption. Mr. Kazimee felt this law indirectly affects his business by 30%-40%. However, he was willing to take whatever additional steps are necessary to follow the private club criteria. He further clarified smoking hookahs is a Middle Eastern cultural, social event.

Dr. Moody raised questions concerning the membership fee, requirements for membership and when memberships can be purchased.

Denis Tracy said this initiative is very broad and caught certain businesses. It also laid the burden on the Board of Health's shoulders. Neither the Board of Health nor the Health Department can change the law. The initiative does not define "employee". In that context, the Board is obligated to make a common sense interpretation of "employee".

In this situation, the Board is obligated to make a factual determination whether or not they are satisfied this is a private club and that there are no employees working. If it meets both those criteria, then the Health Department would take no action. If it doesn't meet those requirements, the Health Department has to take action in the form of issuing an informative notice followed by informing the City of Pullman who determines if they want to pursue an injunction. If the Board is satisfied it is a private club and there are no employees (working during the private club hours) then the business does not fall under the terms of the initiative. Mr. Tracy recommended reasonable restrictions be placed on the owner, i.e. maintain a list of members and written certification signed under penalty of perjury by the owner stating there will be no employees working during these hours and the club itself will have no employees.

Ms. Martin wondered if the owner could be requested to submit a packet of compliance items to the Health Department that she would forward to the Board of Health and Chairman Finch concurred.

Commissioner Partch preferred not to delay the decision.

Dr. Moody said as a food service permitting agency there is an issue about whether this is private/public and the difference between the two. At this point, from what has been presented, he didn't see this as being much different than a public establishment charging a \$2/admission fee after hours rather than a private club. Membership lists are not kept, there is no criterion for membership and the cards don't provide any identification. He was unclear how to regulate a food service establishment in a private club or how to determine whether it is a private club or not. That is something he would like to hear from Environmental Health and how the

BOCC MINUTES-01/17/06

Department regulates a food service establishment in a private club or is it a public food service establishment with an admission fee.

John Skyles replied Environmental Health looks at private clubs in a similar way as potlucks. Food events where everyone is invited to attend and bring their own food. In this case, Environmental Health uses advertising as their key. If a club or any organization advertised using any type of media that everyone is invited to come and partake, that is considered a public event. If the invited are only within the membership of the club and they did not advertise the event to the general public, that is consider a private event. Mr. Skyles didn't believe public/private clubs are defined in the food service regulation. It only says, "An establishment open and providing food to the public".

Dr. Moody couldn't imagine anyone being restricted from this particular facility as long as they pay \$2 and are at least 18 years of age.

Mr. Kazimee said some people have been asked to leave because they did not want to be a part of the club. He also clarified the brochures are from last year. He has not printed anymore based on the new law and the uncertainly of the business. Therefore, he is not currently advertising. The owner reiterated his offer to make additional changes to assure the private club status for consistency with the law.

When asked, Mr. Skyles said establishments like the Eagles and Elks are considered public establishments because guests are permitted. They are also required to have a food permit and the people serving food must have a food and beverage workers permit.

Commissioner Partch said he is acutely aware of what this initiative has done to many business establishments. He felt it was very poorly worded and anytime we do a law by initiative we are not getting our dollars worth. Initiatives are a very poor way to run a government. He believed we have a personal choice. The law reads, "This chapter is not intended to restrict smoking in private facilities which are occasionally open to the public except upon the occasions when the facility is open to the public". He thought it was very clear an establishment could be both public/private.

1. To him the answer is, yes this a private club. There will be questions statewide about private clubs and it should be clearly defined within a year because there are a lot bigger places than Munchy's or the Eagles that must be defined by the state.

2. As far as the employees, Commissioner Partch would accept that there will not be any employees working during private club hours. Here again, he thought it is a personal choice to enter the building. The people protesting don't have to go in the building.

3. He believed with the following conditions he could approve this request.

BOCC MINUTES-01/17/06

- A) Membership list established and cross-checked,
- B) ID checked for age and corresponding with membership list,
- C) He didn't believe there should be any outside smoking allowed because that would infringe on the rights of the public,
- D) He didn't believe it would be right to advertise the private club. The owner could advertise Munchy's public hours. By advertising the private club hours Mr. Kazimee would remove himself from the realm of being a private club,
- E) Any food permits must be obtained from the Health Department,
- F) Any food and beverage workers permits must be obtained from the Health Department,
- G) The Health Department must be permitted for inspections at any time, and
- H) No guests will be permitted.

Commissioner Partch **moved** to accept Mr. Kazimee's petition and give direction to the Health Department that he has met the burden of proof as far as being a private club with no employees working during private club hours and with the conditions mentioned. Commissioner Wigen **seconded** the motion and it **carried**.

D065018A 2. February 21st is the next Board of Health meeting.

3:00 p.m. - Deputy Keith Cooper and K-9 Deputy Bosco.

Present: Sheriff Brett Myers, Kris Thompson, Christina Cooper, Joe Smiley, Thinkh Nguyen, Susan Nelson, Sharron Cunningham, Kelli Campbell and Denis Tracy.

D065018B 1. Deputy Cooper and Deputy Bosco conducted a K-9 drug search exercise in the Commissioners' Chambers. Deputy Bosco located all previously hidden drugs. Sheriff Myers pointed out the team has participated in approximately 34 searches since November 2005 resulting in 25 drug finds.

D065018C 2. The commissioners checked out a seized 1994 Ford Explorer drug vehicle that has since been transformed into a Whitman County DARE vehicle.

3:30 p.m. - Board Business Continued/BOCC Workshop.

D065018D 17. Items discussed included the Coroner's request. No action taken.

4:00 p.m. - Adjournment.

D065018E Commissioner Partch **moved** to adjourn the **January 17, 2006** meeting. Motion **seconded** by Commissioner Wigen and **carried**. The Board will meet in regular session, in their Chambers', in the Whitman County Courthouse,

BOCC MINUTES-01/17/06

Colfax, Washington, on **January 23, 2006**. The foregoing action made this **17th** day of **January 2006**.

ss/ Greg PARTCH, Commissioner
ss/ LES WIGEN, Commissioner

MARIBETH BECKER, CMC
Clerk of the Board

G.R. FINCH, CHAIRMAN
Board of County Commissioners