

Minutes for September 17, 2012

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073359 THE BOARD OF WHITMAN COUNTY COMMISSIONERS met in their Chambers in the Whitman County Courthouse, Colfax, Washington for **Monday, September 17, 2012 at 9:00 a.m.** Chairman Greg Partch, Patrick J. O'Neill and Michael Largent, Commissioners and Maribeth Becker, CMC, Clerk of the Board attended.

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

Present: Gary Petrovich, Bob Reynolds, Bill Spence, and Holly Bowen.

073360 1. Items discussed included lines of credit/bonding, jail chiller project, County Fair and safety issues. No action taken.

9:15 a.m. - Executive Session.

Present: Gary and Valerie Hunt and Kelli Campbell.

073361 2. Commissioner Largent **moved** Commissioner O'Neill **seconded** the motion and it **carried** to go into executive session with the above individuals until 10:00 a.m. in accordance with RCW 42.30.140(4)(a) for matters related to negotiations.

10:00 a.m. - Return to Open Session/Pledge of Allegiance.

Present: Karen Johnson, Joan Willson, Chris Nelson, Bill Spence, Joe Smillie and Holly Bowen.

D073361A 3. Motion by Commissioner O'Neill to accept the consent agenda. Motion **seconded** by Commissioner Largent and **carried**.

073362 4. Claims/Payroll warrants numbered **265258-265282** and **265359-265511** for **\$522,146.44** approved.

073363 5. September 4, 2012 minutes approved.

073364-073371 6. Personnel change orders approved.

073372 7. Commissioner O'Neill **moved** Commissioner Largent **seconded** the motion and it **carried** to sign a resolution consenting to the termination of the WCIP.

RESOLUTION NO. 073272

A RESOLUTION CONSENTING TO THE TERMINATION OF THE WASHINGTON COUNTIES INSURANCE POOL (WCIP) PURSUANT TO THE INTERLOCAL AGREEMENT OF THAT ORGANIZATION

WHEREAS, Whitman County is a participating employer of the WCIP; and

WHEREAS, the Board of Directors of WCIP ended the Pool's self-insured medical plan for members' employees by transferring that program to a fully insured plan effective at the end of 2010, and thereafter operated the medical program of WCIP for the purposes of paying run-out claims, and concluding other business activities including adopting an additional premium on 2010 medical plan members in order to address the actuarial insufficiency of the medical plan; and

WHEREAS, the WCIP no longer provides any self-insured health benefits for members' employees; and

WHEREAS, Article 13 (a) of the WCIP Interlocal Agreement which participating employers are signatories to, calls for three-fourths (75%) of such members to give consent to the termination of that agreement and the WCIP; and

WHEREAS, the administration of run-out claims is nearly complete; and

WHEREAS, other costs of concluding the affairs of the WCIP have been paid or are in predictable amounts; and

WHEREAS, the Board of Directors of the WCIP should make the final decision to complete the termination and dissolution of the WCIP;

NOW, THEREFORE, BE IT RESOLVED that Whitman County hereby consents to the termination of the WCIP upon motion of the WCIP Board of Directors at a time no sooner than all run-out claims are paid and all other functions necessary to conclude the affairs of the WCIP are completed.

Dated this 17th day of September 2012.

BOARD OF COUNTY COMMISSIONERS
OF WHITMAN COUNTY, WASHINGTON

Greg Partch, Chairman

ATTEST:

Patrick J. O'Neill, Commiss.

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Maribeth Becker, CMC
Clerk of the Board

Michael Largent, Commissioner

073373 **8.** Commissioner O'Neill **moved** Commissioner Largent **seconded** the motion and it **carried** to regretfully accept Guy Williams, III resignation from the Planning Commission and sign a letter of appreciation to Mr. Williams for his 15+ years of service on the Commission.

073374 **9.** Chris Nelson presented, explained and recommended approval of a 3-year contract with New World System for annual maintenance of the system thru 02/28/15 noting the 2012 portion has already been paid based on this locked in rate.

Commissioner Largent, just thinking out loud wondered if the County should maintain some flexibility for less than a 3-year agreement in the event the County moves to another platform. He was not suggesting the County was going to move to another platform, but the County has not done a search of alternatives given the last contract with New World that is quite spendy. There are some problems that everyone has experienced with this platform but he was just wondering before the Board signs a 3-year contract if they should maybe peruse some of the other alternatives in the coming year to determine if New World is the most cost-effective way to move forward noting this is huge overhead for the County.

Ms. Nelson said there has certainly been discussions and the potential about is New World the ultimate solution for us, the financials and HR payroll package.

Commissioner Largent said the County has tons of work into this system, investments, staff time and learning time. It is not that he anticipates necessarily the County will make any sort of immediate move, but given the above, he was concerned about locking into 3 years.

Ms. Nelson said a lot depends on the Board's vision. If the Board anticipates within the 3-year timeframe the County would potentially be moving to another platform, she would certainly say, do not agree to 3 years. The advantage to 3 years is the set rate and is budgetarily beneficial. The 3 year contract locks in the rate reiterating the County has already paid for 2012. There is a \$2,000-\$2,500 increase for each year.

Commissioner Largent was troubled with the 3-year contract at a time when the budget is such that they are looking for ways to long-term reduce overhead.

Chris Nelson suggested tabling this issue and discussing it further at a later date. In the meantime, Ms. Nelson will also research any/all ramifications to less than a 3-year agreement.

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Commissioner Largent thought it best to ask the Director to look into the possibility of a one-year contract while they sort some things out.

Commissioner O'Neill said he understood Commissioner Largent's point. He confirmed with Commissioner Largent a new "platform" refers to the possibility of not using New World System in the future and using a completely difference system. Commissioner Largent said that is exactly what he is talking about, but he was not suggesting the County do that now. With that said, Commissioner O'Neill responded the County is strapped budgetarily with the proposed 2013 budget at a negative \$838,000. The County has spent tons on money and man hours on this financial system much of which was paid upfront in 2005. The system is up and running, more people are using it and liking it. Commissioner O'Neill's was very concerned because the County is always short on money. To spend at least \$750,000 plus numerous man-hours on the system and to say now we think we have found something better with a less expensive maintenance agreement and the number of years it would take to make up that savings after spending that kind of money on this system didn't make sense to him. Commissioner O'Neill said the fact Commissioner Largent is thinking about the possibility of a new platform raises a red flag for him.

Commissioner Largent said it doesn't matter what you paid for it, it matters what it is worth now and looking into the future at what is the best economic return for an investment regardless of what was paid in the past.

Commissioner O'Neill said the County has received a great return from New World based on where we are finance-wise today.

Commissioner Largent said his point is, if there is a better platform with a better economic return to the County for its investment they should at least look at it. They have not done that. It isn't about what we paid in the past; that money has already been spent. It is about what we are going to pay in the future. All he is suggesting is "do we lock ourselves into a 3-year agreement?" All the investment time, energy and resources is something that would come into play. He would be surprised if in the near term it would be a good investment. But, if there was an opportunity with a much greater spreading of overhead that might create a pricing differential that does not exist with New World, it may be something to consider. He was not making the point that we can somehow change what we already have invested. He was referring to the additional investment. Commissioner Largent said he is suggesting a 1-year extension as opposed to 3-years.

Commissioner O'Neill preferred to table the issue today and have Ms. Nelson look into the option of a 1-year agreement and other options available. Ms. Nelson interjected looking into other platforms is not a simple task. It involves many individuals and is a long process. The issue today is to decide on a 1 or 3 year maintenance agreement with 1 year having already been paid. She can ask New World if a contract for 2013 would be acceptable

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to them. It was agreed the Director would look into the possibility of a contract for 2013 only and report back to the Board.

073375 10. Commissioner Largent **moved** Commissioner O'Neill **seconded** the motion and it **carried** to approve the replacement of 7 servers for the Auditor's Eagle/Tyler Recorder system, New World Systems, County E-Mail, LaserFiche and FTR.

073376 11. Commissioner Largent **moved** Commissioner O'Neill **seconded** the motion and it **carried** to approve the 2013-14 Lobbyist contract between Whitman County and Jim Potts with no changes (12/31/14).

073377 12. Commissioner O'Neill **moved** Commissioner Largent **seconded** the motion and it **carried** to approve the 2012-13 Steptoe School District #304 Health Services agreement (06/30/13).

073378 13. A letter was received from Joan Folwell, Vice President of the Palouse Prairie Foundation requesting the incorporation of requirements in the First Wind mitigation funding application process.

073379 14. A letter was received from the Department of Commerce concerning a Growth Management requirement due for a 2013 periodic review update. The Planning Department/Commission is in the process of updating the required documents for adoption prior to the 12/31/13 deadline.

073379A 15. Notice was received from the Department of Commerce regarding the close-out of the 2011/12 CDBG-PS grant with all documentation meeting the standards of the original agreement.

073380 16. Commissioners' pending list reviewed.

10:35 a.m. - Recess.

11:00 a.m. - Mark Storey, Public Works Director.

Present: Phil Meyer, David Nails, Karen Johnson, Joan Willson, Bill Tensfeld, Bill Spence, Joe Smillie and Holly Bowen.

ACTION ITEMS

Administrative Division:

073381 17. Chairman Partch convened the hearing to consider declaring certain County property surplus and requested a staff report.

Mr. Storey presented a list of only Public Works equipment and recommended the Board declare these items surplus.

The Chairman opened the hearing to public comment. There being none, the hearing was adjourned.

Commissioner O'Neill moved Commissioner Largent seconded the motion and it carried that the resolution for resale of County surplus property be signed as presented.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF WHITMAN COUNTY, WASHINGTON

IN THE MATTER OF RESALE) RESOLUTION NO. 073381
OF COUNTY SURPLUS PROPERTY)

WHEREAS, The Whitman County Commissioners have advertised and held a public hearing on September 17, 2012, to hear arguments for or against the declaration of the items listed below, and

WHEREAS, the Board of County Commissioners, after due deliberation, have declared the attached list of items as surplus to the County's needs.

ER&R Vehicles and Equipment:

<u>Equip #</u>	<u>Year</u>	<u>Brand</u>	<u>Model</u>	<u>VN</u>	<u>Miles</u>
1016	1980	Mack/Rosco	Truck/ Distributor	RS688LS5511	147879
3000	1987	International	S-2600 Truck	1HTZTGBR7HH510994	178840
7213	1994	Chevrolet	Pickup, 2500, 2WD	1GCFC24S0RE304793	134688
9012	2003	Ford	Explorer	1FMZU72K73UB73882	125100
9410	2004	Ford	Crown Vic	2FAFP71W74X147009	169500

GENERAL FUND

NA	1998	Ford	Ranger Pickup	1FTZR15U9WPA63175	112932
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NOW, THEREFORE, BE IT HEREBY RESOLVED BY THIS BOARD OF COUNTY COMMISSIONERS, that the Whitman County Treasurer advertise and sell, according to law, the attached described surplus items

Dated this 17th of September, 2012.

BOARD OF COUNTY COMMISSIONERS
OF WHITMAN COUNTY, WASHINGTON

Greg Partch, Chairman

ATTEST:

Patrick J. O'Neill, Commiss.

Maribeth Becker, CMC
Clerk of the Board

Michael Largent, Commissioner

073382 18. Commissioner Largent **moved** Commissioner O'Neill **seconded** the motion and it **carried** to publish the notice of sale of surplus County property.

Engineering Division:

073383 19. Chairman Partch convened the hearing for amendment to the 6-Year Transportation Improvement Program and requested a staff report.

Mr. Storey indicated there are 3 changes proposed to the 2012-2017 program.

- 1) Add additional engineering guardrail on Run-Off-Road
- 2) Countywide overlays (Hume Road, Lancaster Road and Endicott Road)
- 3) Administer STP allocation and perform traffic counting

The Chairman opened the hearing to public comments.

Mr. Storey stated staff recommends the Board adopt the changes to the Six Year Transportation Improvement Program.

There being no further comments, the hearing was adjourned.

Commissioner O'Neill **moved** Commissioner Largent **seconded** the motion and it **carried** that the Six Year Road Transportation Improvement Program amendment be adopted as presented.

BEFORE THE BOARD OF WHITMAN COUNTY COMMISSIONERS

In the Matter of the Amended Six)	
Year Transportation Improvement)	RESOLUTION NO. <u>073383</u>
Program (2012-2017))	

WHEREAS, the Public Hearing was held on the 17th day of September, 2012; and

WHEREAS, Notice of the Public Hearing was published according to law and all present wishing to speak for or against said amendment have been heard; and

IT IS HEREBY RESOLVED that the attached Amended Six Year Transportation Improvement Program be adopted as presented.

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DATED this 17th day of September, 2012.

BOARD OF COUNTY COMMISSIONERS
OF WHITMAN COUNTY, WASHINGTON

Greg Partch, Chairman

Patrick J. O'Neill, Commiss.

ATTEST:

Maribeth Becker, CMC
Clerk of the Board

Michael Largent, Commissioner

D073383A 20. The Director noted that the pre-construction meeting for the Colfax Airport Road was held with M.A. DeAtley last week. The project will begin next week and the contractor will try to retain the existing road surface for as long as possible into the project.

Solid Waste Division:

073384 21. Commissioner O'Neill **moved** Commissioner Largent **seconded** the motion and it **carried** to publish a notice of call for bids for the Wood Waste Area Paving project.

073385 22. Commissioner Largent **moved** Commissioner O'Neill **seconded** the motion and it **carried** to execute the ordinance adopting the Solid Waste Disposal Regulation.

ORDINANCE NO. 073385

AN ORDINANCE OF WHITMAN COUNTY, WASHINGTON, RELATING TO SOLID WASTE AND SOLID WASTE MANAGEMENT; AND AMENDING WHITMAN COUNTY CODE TITLE 8.

WHITMAN COUNTY ORDAINS AS FOLLOWS:

Section 1. Findings.

1. Solid Waste Management Within Whitman County

1.1 Whitman County is a rural, Eastern Washington County. The County has established a system for the disposal of all solid waste generated, collected, or disposed in unincorporated Whitman County.

1.2 The County's waste disposal system is designed to ensure the safe disposal of solid waste generated within the County; promote recycling; and ensure landfill-disposed materials are properly handled and disposed.

1.3 Whitman County Public Works Department manages and operates the Solid Waste Division. The Solid Waste Division is responsible for solid waste related activities throughout the County that involve the handling, transfer, and disposal of solid waste.

2. Solid Waste Management Plan and Planned System Improvements

2.1 Counties in Washington State must prepare a coordinated, comprehensive solid waste management plan.¹ Whitman County and all of the cities and towns therein, have adopted the current edition of the Whitman County Solid Waste Management Plan dated February 2012.

2.2 Solid Waste Management Plan goals include waste reduction, environmental protection, proper handling of waste, and maintenance of a financially viable waste system to ensure these goals are met.

2.3 Consistent with the Solid Waste Management Plan, most solid waste collected within the County for landfill disposal is delivered to the County Transfer Facility at Carothers Road.

2.4 To address capacity constraints, the County will be required to make substantial investments in the Transfer Facility.

2.5 Whitman County is planning a series of capital upgrades to the Transfer Facility. The currently planned upgrades have cost estimates of between 2.5 and 3 million, and are planned for construction in 2013 and 2014.

3. Proposed Regulations

3.1 Sound solid waste management is predicated on a predictable, financially stable system and sufficient revenues to pay of revenue bonds necessary to finance the facility upgrades. To make financial investments and complete necessary system improvements, assurance is required as to the continued and predictable utilization of the Transfer Station for solid waste generated within Whitman County.

3.2 Without adequate assurance, there are risks that the County will not realize sufficient revenue to reliably service the debt affiliated with the capital upgrades to the facility.

¹ RCW 70.95.080.

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- 3.3 Planning ahead to successfully complete the planned improvements will assist Whitman County in meeting its obligations to protect the public health and ensure the continued presence of a safe and reliable system for the transfer, transport, and disposal of solid waste.
- 3.4 The proposed regulations are designed to support a comprehensive waste management system which encourages and provides for the extensive recycling, composting, and household hazardous waste collection, which are each significant components of waste management within the County.
- 3.5 The proposed regulations were presented to and discussed with the Solid Waste Advisory Committee (SWAC). SWAC minutes regarding the proposed ordinance are included within the Record.
- 3.6 Comment was requested from all the towns and cities in Whitman County.
- 3.7 The Board of County Commissioners held a public hearing on September 10, 2012, following publication of notice on July 5, 2012, and requests for comment. Two written comments were received.
- 3.8 At the hearing, the County Public Works Department, Solid Waste Division, described the proposal, and addressed questions from the Board of County Commissioners.
- 3.9 Following consideration of staff discussion and review of public comment, the Board directed that staff prepare a proposed decision and findings, to consider at its next regularly scheduled meeting. The Board continued the hearing for further discussion and to make a decision on the proposal.
- 3.10 The Board has reviewed the Record, including public comment submitted, review provided from staff, and the County Solid Waste Management Plan.
- 3.11 The proposed regulations will help ensure the County-wide system is adequate to handle solid waste generated within the County, while protecting the public health and safety; preventing land, air, and water pollution; and, conserving and protecting the County's natural resources and environment.
- 3.12 The proposed regulations will help ensure the continued viability of the County's comprehensive waste management system, including recycling and composting activities.

3.13 Providing for solid waste generated within the County to be disposed of at County facilities ensures the continued financial viability of the County solid waste system. This allows necessary upgrades and investment in system facilities, including transfer stations, involving large capital expenditures, thereby allowing achievement of County solid waste planning objectives.

3.14 The Board deems it to be in the public interest, and consistent with protecting the public, health, safety, and welfare, to adopt the proposed regulations.

Section 2. Adoption.

The County regulations set forth in Attachment A are hereby ADOPTED.

Section 3. Severability.

The provisions of this ordinance are declared separate and severable. The invalidity of any portion of this ordinance shall not affect the validity of the remainder of the ordinance.

Section 4. Effective Date.

This ordinance shall take immediate effect.

ADOPTED this 17th day of September, 2012.

BOARD OF COUNTY COMMISSIONERS
OF WHITMAN COUNTY, WASHINGTON

Greg Partch, Chairman

Patrick J. O'Neill, Commiss.

Michael Largent, Commissioner

ATTEST:

Maribeth Becker, CMC
Clerk of the Board
in and for the County of Whitman,
State of Washington

APPROVED AS TO FORM:

/s/ Denis P. Tracy _____
Whitman County Prosecuting Attorney

Chapter 8.15

SOLID WASTE DISPOSAL REGULATION

8.15.010 Purpose and Applicability.

- A. Whitman County has established a system for the disposal of all solid waste generated, collected, or disposed in unincorporated Whitman County. Additionally, this system includes all solid waste either generated or collected, or both, in any other jurisdictions with which a solid waste interlocal agreement exists. This waste disposal system is designed to ensure the safe disposal of solid waste generated within the County; promote recycling; and ensure landfill-disposed materials are properly handled and disposed.
- B. This chapter is designed to ensure the County-wide system is adequate to handle solid waste generated within the County, while protecting the public health and safety; preventing land, air, and water pollution; and conserving and protecting the County's natural resources and environment. Providing for solid waste generated within the County to be disposed of at County facilities ensures the continued financial viability of the County solid waste system. This allows necessary upgrades and investment in system facilities, including transfer stations, involving large capital expenditures, thereby allowing achievement of the above stated objectives.

8.15.020 Definitions.

For purposes of this chapter, the following definitions apply:

- A. The definitions located in chapters 8.13 and 8.14 are incorporated by reference, and govern interpretation, unless this chapter defines those same terms. In such case, this chapter governs.
- B. Where not otherwise addressed through the County Code, relevant definitions addressing solid waste in Chapters 36.58 and 70.95 RCW, and in Title 173 WAC, govern interpretation.
- C. "Board" means Board of County Commissioners, except in an appeal situation where the Board has designated a hearings officer to hear

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the appeal. In such a case, references in the appeal procedures section to the Board are to the designated hearings officer.

- D. "Health Officer," for purposes of this chapter, means the Director of the County Health Department, or his or her designee, or the Director of the Public Works Department, or his or her designee.
- E. "Recyclable materials" means those solid wastes that are separated from other wastes for anaerobic digestion, composting, recycling or reuse, including but not limited to papers, metals, glass, plastics, aggregates, fabrics, yard debris, food waste, manures, wood waste and other materials that are identified as recyclable mater in the Whitman County Solid Waste Management Plan, and are recycled. Wood waste processed as hog fuel and used for energy recovery shall be considered a recyclable material for purposes of this chapter.
- F. "Recycling" means the transformation or remanufacturing of recyclable materials into usable or marketable materials for use other than landfill disposal, alternative daily cover, industrial waste stabilizer or incineration.

8.15.030 Approved Disposal Sites.

- A. Unless otherwise permitted by state law, or exempted through section (C) or other provisions of this title, it is unlawful for any collecting agency or other person to deliver or deposit any solid waste generated and collected within the County outside the borders of Whitman County, or within the County except at a "Designated Facility."
- B. Designated Facilities are the Whitman County Carothers Road Solid Waste Facility and any County owned transfer station.
- C. Exemptions are:
 - 1. Solid waste not authorized for receipt by a Designated Facility, or unauthorized waste as determined by the Whitman County Health Officer;
 - 2. Recyclable materials which have been separated from non-recyclable materials prior to transport, may be utilized or delivered to recycling facilities operating consistent with applicable County and state laws for reclamation;
 - 3. Inert waste, if: (a) the site is subject to a valid, Washington State Department of Natural Resources mining and reclamation permit; (b) the site is subject to a valid, County Health Department inert waste landfill permit; (c) any applicable local

land use permits, such as a conditional use permit; and (d) the site is not permitted to operate as any other category of landfill than an inert waste landfill; or,

4. The Whitman County Health Officer provides prior written authorization for the disposal for public health and safety, and planning purposes, and the disposal is consistent with the adopted Whitman County Solid Waste Management Plan, and implementing regulations. Such authorization may include situations where a waste route is at least 35 miles from a Designated Facility, and the collected waste is part of a route primarily located outside the County.

8.15.040 Enforcement.

A. Violations of this chapter are subject to enforcement as set forth in this chapter.

B. Initiation of Enforcement Action.

1. The Health Officer is authorized to enforce this chapter.
2. If the Health Officer determines through investigation, inspection, or other means that any person has violated any provision of this chapter, the Health Officer may issue a notice of violation containing:
 - (a) The name and address of the person in violation of this chapter;
 - (b) A brief description of the violation;
 - (c) A statement assessing a civil penalty for each violation, which shall be paid to the County within 20 days from the date of issuance;
 - (d) A statement advising that if any civil penalty is not timely paid, the matter will be referred to a collection company;
 - (e) A statement advising:
 - (i) the notice of violation may be appealed by filing an appeal with the Board within fifteen (15) days;
 - (ii) any penalty shall not accrue during the pendency of such administrative appeal;
 - (iii) a summary of the requirements for filing a complete appeal; and

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(iv) the failure to file a timely and complete appeal will constitute a waiver of all rights to an administrative appeal of the notice of violation under the County code.

3. The notice of violation shall be served on the person alleged to be in violation of this chapter either personally or by mailing a copy of such notice by certified mail, postage prepaid, return receipt requested, to the person at the last known address. Proof of service shall be made at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring time, date and manner in which service was made.

4. Each waste diversion event shall constitute a separate violation. For example, if the same violator diverts two truck loads of solid waste away from a Designated Facility, each load is a separate violation.

C. Penalties shall be set at an amount equivalent to the cost which would have been charged the violator, had the waste been processed at a Designated Facility. Should the violation constitute a second or multiple violation of this chapter by the same violator, this penalty may be doubled. Reasonable and actual investigation and enforcement costs may be incorporated into the penalty, as long as the total penalty does not exceed four (4) times the cost of processing the waste at a Designated Facility.

D. Appeal Procedures

1. The person served with a notice of violation may appeal to the Board within fifteen (15) days of service of the notice of violation. To be complete, the appeal must: (a) identify the notice of violation appealed; (b) identify the specific grounds on which the appeal relies, including a concise statement of the factual reasons for the appeal, and if known, identification of any laws appellant claims are violated; (c) the name, mailing address, and daytime telephone number of the appellant together with the signature of appellant or appellant's legal counsel, if any.

2. Failure to file a timely and complete appeal with the Board shall constitute waiver of all rights to an administrative appeal under the County code.

3. The Board shall hear the appeal, or designate a hearings officer to hear the appeal. At the appeal hearing, the Health Officer

shall have the burden of proving the violation, which burden shall be met by a preponderance of the evidence.

4. No new issues may be raised after the deadline for filing an appeal, unless the Board grants an exception for good cause. The Board may only grant an exception for good cause upon a showing that:
 - (a) the new issue was not known and could not reasonably have been known by the filing deadline;
 - (b) the issue was immediately raised after the basis for it could reasonably be known; and
 - (c) the issue was raised within fifteen (15) days of the deadline for filing the appeal.
5. The appeal may be summarily dismissed in whole or in part if untimely, incomplete, or without merit.
6. Unless summarily dismissed, an appeal hearing shall be held before a decision is made. Notice of the appeal hearing shall be given to the appellant or their representative by first class mail and to the Health Officer by electronic or regular mail. The notice of hearing shall include the date, time, and place of the hearing, and other appropriate information, or other deadlines, including briefing deadlines, where applicable. Unless the notice of hearing provides an alternative schedule, at least seven (7) days before the hearing, the Health Officer shall submit a report to the Board and parties by mail or electronic mail summarizing the basis for the notice of violation.
7. The Board may make any procedural determinations necessary to implement this chapter and to process the matter fairly and expeditiously.
8. The Board may uphold, reverse, or remand, the Health Officer's determination through a written decision, with findings and conclusions. The Board has discretion to consider mitigating circumstances in making its decision.
9. The Board's decision shall be final and conclusive, unless appealed to superior court within twenty (20) days of either the decision, or a decision on reconsideration. If the optional reconsideration process is utilized, any reconsideration motion must be filed within ten (10) days of the decision. To the

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extent there is an irreconcilable conflict with state law over the appeal period, state law shall govern.

E. The remedies set forth herein for violations of this chapter are not exclusive. Violations of this chapter may be enforced through County Code 8.13.270, and/or through any other applicable enforcement provisions.

073386 23. Tire Amnesty Day has been set for October 13th at the Transfer Station.

073387 24. Fall Clean Up week has been set for October 8th thru 13th.

D073387A 25. Mr. Nails indicated the new solid waste hauling contract is going well.

Maintenance Division:

D073387B 26. Road repair work is beginning this week by First Wind contractors and the County.

11:30 a.m. - Board Business Continued/Monthly Financial Review.

Present: Bob Lothspeich, Bob Reynolds, Cinnamon Brown, David Ledbetter, Fran Martin, Gary Petrovich, Janet Schmidt, Mark Storey, Tim Myers, Karen Johnson, Joan Willson, Bill Tensfeld, Bill Spence, Joe Smillie and Holly Bowen.

073388 27. The monthly financial report provided by Mr. Petrovich and Mr. Ledbetter.

Current Expense 2011 thru 12/31/11 Revenue - \$11,658,666
Current Expense 2012 thru 08/31/12 Revenue - \$ 8,484,963 - 55.10%

Current Expense 2011 thru 12/31/12 Expenditures \$12,385,066
Current Expense 2012 thru 08/31/12 Expenditures \$ 8,374,799 - 59.00%

Current Expense 2012 Amended Budget - \$14,193,916
Current Expense 2013 Proposed Revenue - \$12,715,145
Current Expense 2013 Proposed Expenses - \$13,521,354
Current Expense 2013 Proposed Budget Revenue/Expenses Difference \$806,209

Other items of interested noted: State Examiners are on site, Pertussis has hit Whitman County and a successful County Fair for the County and vendors.

11:40 a.m. - Recess.

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1:30 p.m. - Reconvene/Board Business Continued/BOCC Workshop.

Present: Tim Myers (1:30 p.m.) and Chris Nelson, David Ledbetter, Gary Petrovich, Susan Nelson and Kelli Campbell (2:00 p.m.).

073389 27. Items discussed included bark for the Fair, County parks camping/reservations, fires near County parks, brush hogging Colfax Trail and position budgeting. No action taken.

2:40 p.m. - Recess.

D073389A THE BOARD OF WHITMAN COUNTY COMMISSIONERS met in their Chambers in the Whitman County Courthouse, Colfax, Washington for **Tuesday, September 18, 2012 at 2:00 p.m.** Chairman Greg Partch, Patrick J. O'Neill and Michael Largent, Commissioners and Maribeth Becker, CMC, Clerk of the Board attended.

11:00 a.m. - Board Business Continued/Executive Session.

Present: Denis Tracy, Gary Petrovich, Mark Storey, Milton Rowland (phone).

073390 28. Commissioner Largent **moved** Commissioner O'Neill **seconded** the motion and it **carried** to go into executive session with the above individuals until 12:10 p.m. in accordance with RCW 42.30.110(1)(i) for matters related to litigation.

12:10 p.m. - Return to Open Session/Recess.

2:00 p.m. - Meeting Reconvened/Board of Health.

Present: Fran Martin, Michael Baker, Debbie Walker-Lavine, Mindy White and Garth Meyer.

D073390A 1. The Director requested the Board of Health meeting time be changed from 2 p.m. to 9 a.m. to accommodate the Health Officer beginning in October and the Board had no objections.

073391 2. Mr. Baker advised the Board Dr. Bowman, the State Department of Health and Department of Ecology made the decision to recommend cancelling all outdoor activities last Friday (14th) due to poor air quality resulting from the wild fires. Since Friday, the recommendation has been reduced to only populations highly susceptible to illness associated with poor air quality. At this time the Department is continuing the advisory, but not the recommendation. Fran Martin contacted all the schools to advise them of the recommendation and stressed it was for all populations on September 14th. Ms. Martin noted

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only one school district was not receptive to the recommendation. What the Department didn't know that Ms. Martin just learned today is the fact the Governor placed a burn ban on Whitman County from September 14th thru midnight September 17th. Commissioner Largent suggested the Health Department contact the Department of Ecology to be added to any notification list when such a ban is issued. Based on current weather reports Ms. Martin said there is a light risk of smoke in Whitman County over the next few days.

D073391A 3. Mr. Baker said Scott Paradis recently completed his 6-month evaluation and is working more as an Environmental Health Level I rather than an Environmental Health Tech. They are considering having Scott assume the food program responsibilities and shifting Phil Hagihara almost exclusively to the on-site sewage program.

D073391B 4. The department continues working on streamlining the food program billing process for enactment January 1st. Mr. Baker reported on the success of the on-line food training program with Tacoma-Pierce Health Department.

D073391C 5. According to Mr. Baker, the hospital plan on conducting a food exercise/flu vaccine clinic in October. The Health Department will piggyback that event by setting up their trailer and practicing for a mass vaccination.

D073391D 6. Mr. Hagihara and Mr. Paradis are in Spokane today obtaining their certification to become home inspectors and will be fully credentialed for WSU Greek Life inspections.

D073391E 7. Debbie Walker-Lavine advised the Board of the 2nd Pertussis case in Whitman County. To date, the Department is unable to determine its origin.

D073391F 8. Public Health flu clinics begin October 17th.

D073391G 9. Ms. Walker-Lavine said she is working with the Correction Officers on a Jail Substance Policy that she hopes to complete by November 1st. Ms. White and she are working on programs for inmates once they are released.

073392 10. Ms. White said she is present today on behalf of Joy Gilroy of the Washington Association of Local Public Health Officials. When the Tobacco Youth Access law was written there was a prevention clause meaning tobacco control policies had to be written at the state level rather than the local level. The last compliance check in Whitman County revealed 15.4% of retailers sold underage youths. The state level was 15.6%, the highest it has ever been indicating a problem. The state has cut funding for most tobacco comprehensive programs. The only funding available is

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for educating retailers about not selling to youths. Ms. Gilroy would like to meet with the Board of Health about supporting a change in the state law to regulate tobacco control policies at the local level. Ms. White indicated her support for what Ms. Gilroy is trying to accomplish and would be happy to assist in coordinating a visit by Ms. Gilroy should the Board be interested.

D073392A 11. The Director said staff is conducting a major overhaul of records in storage, shredding very old or mice infested documents, cleaning and reorganizing files.

D073392B 12. Public Health provided a display booth at the Palouse Empire Fair and will also have a booth at the Schweitzer Engineering Laboratories fair in November.

D073392C 13. The nurses are attending open houses at the schools talking with the parents and giving them information to review about human growth and development, HIV/AIDS and sexuality education that the nurses will be teaching in the schools.

D073392D 14. Ms. Martin said she would like to hire a 50-75% nursing position. For years, the Health Department has been running the CNA class. Rather than pay a contracted instructor, Ms. Martin was considering having one of the nurses instruct the classes. In this way the Department could retain the \$650 fee per person and the part-time nurse could also perform other department duties. The Director will visit more about this issue with the Board in a workshop at a later date.

D073392E 15. The next Board of Health meeting is October 16th.

2:30 p.m. - Reconvene/Board Business Continued.

Present: Fran Martin, Michael Baker, Debbie Walker-Lavine, Mindy White and Garth Meyer.

073393 29. Fran Martin distributed a spreadsheet outlining the 1/10 of 1% Emergency Communications sales tax received, some of which is derived and includes windmill money that must be rebated.

Based on an estimate of \$400,000 Whitcom would like Whitman County to pay 66% (\$320,000 or \$64,000/year for 5 years), for the cost to replace 8 consoles used for call-outs. Whitcom would pay the contractor in full and Whitman County would have 5 years to reimburse Whitcom.

The Emergency Communications Advisory Committee (ECAC) recommended the Director speak to the commissioners first and report back to them. ECAC would like to counter-offer at 50% (\$200,000) or \$40,000/year for 5 years. The reason for this counter-offer is because ECAC does not have the money.

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Ms. Martin also distributed copies of ECAC's major project list they are currently working on noting the majority of their funds are encumbered. The Director asked the Board if they supported the 66% contribution or if they would be receptive to her counter-offering at 50% or \$200,000 over 5-years.

Commissioner Partch stated this discussion should have been held in workshop first because it is a far more complicated issue. Whitcom's only responsibility is to field phone calls and dispatch. The trouble is determining what portion is Whitcom and what portion is communications. The consoles have radios and phone systems. The phone system is supported by the state. The radio system is now 5-years beyond its life expectancy.

Commissioner Largent requested a narrative followed by a workshop before he could offer an opinion.

Ms. Martin indicated ECAC will be meeting tomorrow and they would like an answer at that time. Commissioner Partch said ECAC now has a seat at the Whitcom table, as they should, but reminded everyone ECAC is advisory to the County Commissioners. Fran is doing exactly as she should by coming to the commissioners, but the Board needs a workshop with all parties involved and all information in advance of the workshop.

Ms. Martin said the only kink in this process is that as she understands it Whitcom is not able to obtain quotes until they have a guaranteed source of income. Commissioner Largent wondered why ECAC didn't forward the narrative before today if this is such an urgent issue and Ms. Martin said it only came to ECAC last month before they met.

Commissioner O'Neill commented from his perspective he wants to make sure Whitman County only pays its fair share. Commissioner Partch said all parties involve need to determine an equitable split. A workshop has been scheduled for October 8th to further discuss this issue.

2:45 p.m. - Recess.

D073393A THE BOARD OF WHITMAN COUNTY COMMISSIONERS met in their Chambers in the Whitman County Courthouse, Colfax, Washington for **Monday, September 24, 2012 at 9:00 a.m.** Patrick J. O'Neill and Michael Largent Commissioners and Maribeth Becker, CMC, Clerk of the Board attended. Commissioner Partch was not available.

9:00 a.m. - Meeting Reconvened/Board Business Continued/Workshop.

Present: Kelli Campbell, Bill Spence and Holly Bowen.

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073394 30. Items discussed included the Palouse Water Summit meeting, Planning Commission, Solid Waste Advisory Board, Property Management and Blue Ribbon Advisory Task Committee appointments, Solid Waste Bargaining Unit agreement, Health Care consultant, WCIF Master applications, Employee Assistance Program, Employee Flexible Spending Account, Health Officer liability insurance, Mayors Roundtable, Quarterly Regional meeting, 2013 budget reviews and Martin Hall. No action taken.

9:25 a.m. - Recess.

10:00 a.m. - Reconvene/Board Business Continued.

Present: Kelli Campbell, Bill Tensfeld, Karen Johnson, Bill Spence, Evan Ellis and Holly Bowen.

073395 31. Claims/Payroll warrants numbered **265536-265660** for **\$473,150.09** approved.

073396-073398 32. Personnel change orders approved.

073399-073403 33. Commissioner Largent **moved** Commissioner O'Neill **seconded** the motion and it **carried** to sign the 2013 Master applications (5) related to WCIF.

10:10 a.m. - David Ledbetter.

073404 34. Kelli Campbell presented a letter terminating the agreement with Solution Resources because the WCIF provides Employee Assistance coverage through Magellan has local providers whereas Solution Resources does not. Commissioner Largent **moved** Commissioner O'Neill **seconded** the motion and it **carried** to sign a letter of termination as of 12/31/12 between Whitman County and Solutions Resources.

073405 35. Commissioner Largent **moved** Commissioner O'Neill **seconded** the motion to sign a board order requesting the Prosecutor resume responsibility for representing the County in the OVIC versus Whitman County case, taking the place of the firm of Foster Pepper and one of the attorneys of that firm: Mr. Milt Rowland. The Board hereby requests the Whitman County Prosecutor utilize the services of the firm of Foster Pepper and appoint Mr. Rowland as a Special Deputy Prosecutor under the direction and control of the County Prosecutor. Cost of firm will be paid for under the Whitman County Board of County Commissioners with no liability against the County Prosecutor's office, budget or funds. This to be done on an as-needed basis. Motion **carried**.

Commissioner O'Neill said Gary Petrovich is the County's lead negotiator dealing with Hawkins Companies and he is not available today. Mr. Petrovich did sit down with the Prosecutor Denis Tracy before he left and

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forwarded an email regarding the appointment of Milt Rowland as a Special Deputy in this regard.

Commissioner Largent said in short, the contract with Mr. Rowland was limited in its funds and that has been expended. By this board order the County is not extending the contract with Milt Rowland's firm. Instead they are putting any necessary legal defense with regards to the OVIC claim under the prevue of the Prosecuting Attorney.

Evan Ellis asked if Commissioner O'Neill has any concerns with this case moving back to Denis Tracy's office since he was previously opposed to this in the past. Commissioner O'Neill responded at this time they have moved along through a lot of issues. There are still some differences of opinions on issues and he believed Milt Rowland will represent the County because he is an expert in this type of litigation and commercial development. Denis Tracy recognizes that and believes it is for the betterment of the County. Therefore, Commissioner O'Neill thought it is a win-win for the commissioners and Prosecuting Attorney to have Milt Rowland on board. The bottom line is making this a win-win for everyone. Now that Milt Rowland is assigned as a Special Deputy there is no need to go through the Superior Court Judge as was previously handled by Commissioner Partch up to a maximum of \$10,000. Denis Tracy has agreed to do this. Prior to, he did not.

Holly Bowen asked if Mr. Rowland has a rate he will be charging for services if this is being done on an as-needed basis. The commissioners were unaware of that cost but Commissioner Largent indicated he thought this resolution (board order) was a major shift in the County's defense strategy against the OVIC lawsuit in that the Prosecuting Attorney will be the one directing the defense as opposed to Milt Rowland's firm under special contract with the Board of Commissioners. There hasn't been any movement on the lawsuit per say recently other than discussion of its implications. Therefore, he thought this does represent a major shift by the Board to the Prosecuting Attorney's office under his direction. He will determine whether or not it is necessary to engage the services of Mr. Rowland as opposed to the Board of County Commissioners.

Evan Ellis clarified that the board order does not bind Denis Tracy to hire Milt Rowland and Commissioner Largent said that is correct. Hiring a Special Prosecutor is under the direction of the Prosecuting Attorney. Given the fact Mr. Rowland has had some involvement in the OVIC case it would make sense that Mr. Rowland be the Special Deputy Prosecutor in the event the lawsuit isn't resolved otherwise.

The commissioners clarified upon request by Karen Johnson that the County reached its \$10,000 limit with Mr. Rowland.

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Bill Spence wondered what the County received for \$10,000 as opposed to just having the County Prosecutor handle the case from the beginning. Commissioner O'Neill thought the County received much clarification. Mr. Rowland has met with Hawkins staff, their attorney and he felt many issues have been reconciled. He believed the County moved forward in a manner that was appropriate, although in his mind, way too slow. He wished it could have been quicker, but when dealing with attorneys that's not how it works.

Commissioner Largent said most legal defense takes place in executive sessions and that is the venue to discuss legal strategy.

073406-073407 36. Commissioner Largent **moved** Commissioner O'Neill **seconded** the motion and it **carried** to appoint Keith Paulson and Ken Duft to the Planning Commission. Mr. Paulson's term will expire 12/31/15 and Mr. Duft's term will expire 12/31/13.

073408-073409 37. Commissioner Largent **moved** Commissioner O'Neill **seconded** the motion and it **carried** to appoint Bob Hooper and reappoint Dan Brown to the Solid Waste Advisory Committee. Mr. Hooper's term will expire 12/31/15 and Mr. Brown's term will expire 12/31/14.

073410-073414 38. Commissioner Largent **moved** Commissioner O'Neill **seconded** the motion and it **carried** to reappoint Robert Davis, Nick Davis, Brian Crow, Justin Heaton and Steve Nelson to 1-year terms on the Property Management Team. All terms will expire 12/31/13.

073415 39. An executed copy of the Washington Association of Sheriffs and Police Chiefs electronic monitoring agreement with Whitman County Juvenile Services was received (09/17/12).

10:30 a.m. - Adjournment.

D073415A Commissioner O'Neill **moved** to adjourn the **September 17, 18 and 24, 2012** meeting. Motion **seconded** by Commissioner Largent and **carried**. The Board will meet in regular session, in their Chambers', in the Whitman County Courthouse, Colfax, Washington, on **October 1, 2012**. The foregoing action made this **24th** day of **September 2012**.

ss/ PATRICK J. O'NEILL, COMMISSIONER
ss/ MICHAEL LARGENT, COMMISSIONER

MARIBETH BECKER, CMC
Clerk of the Board

GREG PARTCH, CHAIRMAN
Board of County Commissioners