

COMMISSIONERS RECORD 51
FRANKLIN COUNTY
Commissioners' Proceedings for June 13, 2012

This document is a summarized version of the Board of Commissioners proceedings. The minutes are paraphrased, not verbatim. Access to an electronic audio recording of the meeting is available upon request.

The Honorable Board of Franklin County Commissioners met on the above date. Present for the meeting were Brad Peck, Chairman; Rick Miller, Chair Pro Tem; and Robert E. Koch, Member; Fred Bowen, County Administrator; and Toni Fulton, Acting Clerk to the Board. Meeting convened at 9:00 a.m.

Present in audience: Rich Lahtinen, Jim Follansbee, Roger Lenk, Ron Horn, Wayne Vertz, Lester Storms, Marianne Ophardt, Teresa Chen, Vic Reeve, Tom Larsen, Eric Hsu, Sharon Paradis, Troy Woody, Janet Taylor, Shawn Sant

LightSpeed Networks (LS Networks)

Assistant Franklin County Engineer Guy Walters and Robin Smith, Legal & Compliance Director, LS Networks, met with the Board. Present in audience: Rich Lahtinen, Jim Follansbee, Roger Lenk, Ron Horn, Wayne Vertz, Lester Storms, Marianne Ophardt, Teresa Chen, Vic Reeve, Tom Larsen, Eric Hsu, Sharon Paradis, Troy Woody, Janet Taylor and Shawn Sant.

Ms. Smith gave a brief overview of LS Networks and provided a handout titled "LS Networks: Bridging the broadband gap at LightSpeed." (Exhibit 1)

Commissioner Peck said he had hoped LS Networks may be able to provide significant additional value to the county without any burden or cost to LS Networks. He said he is thinking in particular of the Enhanced 911 capabilities, some of which is done by cable and some by microwave, which all might be better done by fiber optic.

Commissioner Peck asked if the Board would be amenable to holding the application for a week or so to allow time for the Public Works Department to see what sort of additional services LS Networks might be able to provide to Information Services for the county's benefit as part of the agreement. Ms. Smith said another way to do it would be to have the franchise agreement in place but as we're doing the process, LS Networks and Franklin County

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departments can talk and figure out what needs you have and how we could address those but not necessarily tie that to the franchise agreement. Commissioner Peck said if it's not in the agreement, then there's no obligation. Ms. Smith is not sure it can be in the ordinance. Commissioner Peck does not know either. Ms. Smith referred to a similar situation; Yakima County wanted to do something similar and determined counties do not have statutory authority to do that. Cities do have authority. We did work out something to help them improve their IT but did it outside of the franchise agreement. Ms. Smith noted in almost all these instances, we're trying to make our routes go close to the facilities that it makes sense for us to try to extend services to. It puts us pretty close to some of the facilities in the county.

Commissioner Peck asked about the timeline. Ms. Smith replied, "ASAP."

Commissioner Peck said he senses the other Board members are inherently supportive and he is as well but he would like to wait a week to allow time for the Public Works Department and other county staff members to talk with LS Networks about what sort of additional services the County can achieve through this, and to the extent we can, add those into the franchise agreement, even if they're not hard, binding commitments, something that expresses an intent to do that.

Ms. Smith asked the Board if it would be possible to have this approved without her being present to eliminate the need to travel back from Portland. Commissioner Peck said yes. Public Hearing: application for franchise agreement to Lightspeed Networks, dba LS Networks, for a fiber optic network to allow them access to the county's right-of-ways

Public Hearing convened at 9:19 am. Present: Commissioners Peck, Miller and Koch; County Administrator Fred Bowen; Assistant Engineer Guy Walters; Robin Smith, Legal & Compliance Director, LightSpeed Networks; and Acting Clerk to the Board Toni Fulton. Present in audience: Rich Lahtinen, Jim Follansbee, Roger Lenk, Ron Horn, Wayne Vertz, Lester Storms, Marianne Ophardt, Teresa Chen, Vic Reeve, Tom Larsen, Eric Hsu, Sharon Paradis, Troy Wood, Janet Taylor and Shawn Sant.

Commissioner Peck noted that the Board will reserve the opportunity to take additional comments at a future Board meeting before taking any Board action. Commissioner Koch agreed.

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Commissioner Peck asked if anyone wished to make any comments.

Roger Lenk said in the interest of competition he would hope that some sort of agreement like this would allow alternative fiber optic service and/or internet service to expand telecommunication facilities throughout the county for individuals and small businesses as well as institutions. He answered Commissioner Peck's question.

There was discussion about the non-exclusive nature of the contract. Ms. Chen said the agreement is non-exclusive.

Commissioner Peck asked if anyone else wished to comment. There was no response. Hearing was closed to public comment.

WSU EXTENSION (9:24 a.m.)

WSU Extension Agent Marianne Ophardt met with the Board. Present in audience: Rich Lahtinen, Jim Follansbee, Roger Lenk, Ron Horn, Wayne Vertz, Lester Storms, Marianne Ophardt, Teresa Chen, Vic Reeve, Tom Larsen, Eric Hsu, Sharon Paradis, Troy Wood, Janet Taylor and Shawn Sant.

Master Gardener Program

Ms. Ophardt gave an update on the Master Gardener Program and answered the Board's questions.

OFFICE OF PUBLIC DEFENSE (OPD) (9:35 a.m.)

OPD Director Eric Hsu met with the Board. Present in audience: Rich Lahtinen, Jim Follansbee, Roger Lenk, Ron Horn, Wayne Vertz, Lester Storms, Marianne Ophardt, Teresa Chen, Vic Reeve, Tom Larsen, Eric Hsu, Sharon Paradis, Troy Woody, Janet Taylor and Shawn Sant.

Annual Report

Mr. Hsu reviewed details of the 2011 Annual Report (Exhibit 2) and the 2012 Strategic Plan (Exhibit 3).

FRANKLIN COUNTY NOXIOUS WEED CONTROL BOARD (10:14 a.m.)

Weed Control Board Director Victor Reeve, Assistant Engineer Guy Walters and Road Superintendent Ron Horn met with the Board. Present in audience: Rich Lahtinen, Jim

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Follansbee, Roger Lenk, Wayne Vertz, Lester Storms, Marianne Ophardt, Teresa Chen, Vic Reeve, Tom Larsen, Eric Hsu, Sharon Paradis, Troy Woody, Janet Taylor and Shawn Sant.
Roadside Herbal Application

Mr. Reeve gave the Board a copy of a letter from the Weed Board (Exhibit 4) and asked for discussion about the possibility of having the Weed Control Board be responsible for applicable of roadside herbal products. He explained what the Weed Board is and how it is funded and staffed. Questions were asked about liability and insurance coverage. Mr. Walters confirmed that because there is no current contract in place, services are not being provided at this time. The Board decided to proceed with the process of having the Public Works Department and the Weed Board find out more information.

OFFICE BUSINESS (10:31 a.m.)

Administrative Assistant Toni Fulton met with the Board. Present in audience: Rich Lahtinen, Jim Follansbee, Roger Lenk, Ron Horn, Wayne Vertz, Lester Storms, Marianne Ophardt, Teresa Chen, Vic Reeve, Tom Larsen, Eric Hsu, Sharon Paradis, Troy Wood, Janet Taylor and Shawn Sant.

Vouchers

Motion – Commissioner Koch: I move for approval of vouchers in the bottom line of \$155,395.44 and signed by Robin Stanco and Julie Jordan. Second by Commissioner Miller.

| Fund Expenditures | <u>Warrants</u> | | Amount Issued |
|------------------------------|------------------------|-------|----------------------|
| Current Expense | 67328 | 67370 | \$44,852.44 |
| Current Expense | 67371 | 67413 | \$37,466.79 |
| Election Equipment Revolving | 67414 | 67416 | \$380.74 |
| Enhanced 911 | 67417 | 67419 | \$3,680.56 |
| Ending Homelessness Fund | 67420 | - | \$2,108.00 |
| TRAC Operations Fund | 67421 | 67446 | \$15,791.43 |
| Franklin County RV Facility | 67447 | 67449 | \$35,064.28 |
| Motor Vehicle/Public Works | 67450 | - | \$16,051.20 |

(Exhibit 5)

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Motion – Commissioner Koch: I move for approval of Salary Clearing payroll in the amount of \$594,796.16, Emergency Management payroll in the amount of \$11,054.66, and Irrigation payroll in the amount of \$12,391.14, for a total of \$618,241.96, signed by Matt Beaton and Consuelo Curiel. Second by Commissioner Miller. 3:0 vote in favor.

Salary Clearing Payroll:

| | | |
|----------------|---------------|---------------------|
| Payroll | 56273 - 56359 | 170,622.14 |
| Direct Deposit | | 344,207.69 |
| | | 514,829.83 |
| Benefits | 56360-56364 | 79,966.33 |
| | Total | \$594,796.16 |

Emergency Mgmt Payroll:

| | | |
|----------------|--------------|--------------------|
| Payroll | 67298-67304 | \$2,518.11 |
| Direct Deposit | | 7,101.89 |
| | | \$9,620.00 |
| Benefits | 67305-67308 | 1,434.66 |
| | Total | \$11,054.66 |

Irrigation Payroll:

| | | |
|----------------|--------------|--------------------|
| Payroll | 67309-67323 | \$6,756.51 |
| Direct Deposit | | 3,875.80 |
| | | \$10,632.31 |
| Benefits | 67324-67327 | 1,758.83 |
| | Total | \$12,391.14 |

Grand Total

| | |
|---------------------|---------------------|
| All Payrolls | \$618,241.96 |
|---------------------|---------------------|

(Exhibit 6)

Consent Agenda

Motion – Commissioner Miller: I move for approval of the consent agenda as listed. Second by Commissioner Koch. 3:0 in favor.

1. Approval of Resolution 2012-192, Settlement Agreement between Benton- Franklin Counties and Teamsters Local 839, representing Juvenile Detention Unit
2. Approval of Resolution 2012-193, Agreement #2012-HHAA-LCC between Benton and Franklin Counties Department of Human Services and Lourdes Counseling Center, to

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assist the counties with meeting the goals of the Ten-Year Homeless Housing Plan through the Benton and Franklin County Homeless Housing and Assistance Program

3. Approval of Resolution 2012-194, Amendment to the Interlocal Agreement between the County of Franklin and: the City of Pasco, the City of Connell, the City of Mesa, and the City of Kahlotus, in providing local homeless housing and assistance programs/plans approved by Franklin County Resolution 2005-532
4. Approval of Resolution 2012-195, lease of Neopost IS-490 Digital Mailing System from NW Mailing, Inc. using the Western States Contracting Alliance Contract #ADSP011-00000411-4

Commissioner Miller left the meeting to attend to urgent family matters.

COUNTY ADMINISTRATOR (10:37 a.m.)

County Administrator Fred Bowen and TRAC Manager Troy Woody met with the Board. Present in audience: Rich Lahtinen, Jim Follansbee, Roger Lenk, Ron Horn, Wayne Vertz, Lester Storms, Marianne Ophardt, Teresa Chen, Vic Reeve, Tom Larsen, Eric Hsu, Sharon Paradis, Troy Woody, Janet Taylor and Shawn Sant.

Executive Session at 10:40 a.m. pursuant to RCW 42.30.140(4) for a matter of contract negotiations regarding the Pasco Public Facilities District; expected to last up to 15 minutes. Commissioner Peck added the executive session more specifically is a discussion about negotiating terms for a possible potential transfer of ownership for the TRAC properties in the county to some other entity, in this case the Pasco Public Facilities District. Those in the audience left the meeting.

Open Session at 10:55 a.m.

Executive Session resumed at 10:55 a.m. based on RCW 42.30.140(4) for a matter of contract negotiations regarding the Pasco Public Facilities District; expected to last up to an additional 15 minutes.

Open Session at 11:12 a.m.

Recessed at 11:13 a.m.

Reconvened at 11:19 a.m.

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Benton-Franklin County Fair Booth

There was discussion about use of a Benton-Franklin County Fair Booth. Commissioner Peck proposed the possibility of other county departments, such as TRAC, participating in manning a booth along with the Commissioners. TRAC General Manager Troy Woody spoke in opposition to the idea of TRAC staff manning the booth, stating that from a marketing perspective, the booth has not been profitable in years past. Commissioner Peck suggested contacting the Fair Board to inquire about a special dispensation and potential leniency in the policy. County Administrator Fred Bowen will contact the Fair Board.

PROSECUTOR

Juvenile Justice Center Director Sharon Paradis and Franklin County Prosecutor Shawn Sant met with the Board.

Gang Prevention Grant

Ms. Paradis and Mr. Sant explained details of a 2012 Washington State Criminal Street Gang Prevention & Intervention Grant Program. The Board **gave approval** for the grant application to be placed on the June 20, 2012, consent agenda.

Executive Sessions

Deputy Prosecutor Janet Taylor met with the Board. No one was present in the audience. **Executive Session** at 11:38 a.m. pursuant to RCW 42.30.110(i) to discuss with legal counsel: matters relating to agency enforcement actions; litigation or potential litigation regarding Tim Fife; expected to last up to 15 minutes.

Open Session at 11:53 a.m.

Motion – Commissioner Peck: I'll phrase this and offer this as a motion, that the county take steps to remove, drop, rescind – whatever the appropriate term is – our appeal of Mr. Fife's request for unemployment benefits. The motion is made not from the perspective that the county has improperly done so; rather, we placed that appeal to preserve our rights under the law, and with the benefit of time and further review we've decided that ultimately it's in the county's best interests to simply drop that appeal and move forward with other issues. So albeit somewhat lengthy, that's the motion. Second by Commissioner Koch. 2:0 vote in favor.

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Executive Session at 11:56 a.m. pursuant to RCW 42.30.110(i) to discuss with legal counsel: the insurance claim related to the embezzlement matter involving Dennis Huston; expected to last up to 15 minutes.

Open Session at 12:12 p.m. No one was present in the audience.

Motion – Commissioner Koch: I move that we recess until 7:00 p.m. Second by Commissioner Peck. 2:0 vote in favor.

Recessed at 12:13 p.m.

Reconvened at 7:03 p.m. at TRAC Center, 6600 Burden Boulevard, Pasco, Washington. Present in audience: Many people including those listed on the sign-in sheet (Exhibit 7).

PUBLIC MEETING PURSUANT TO RCW 35.02.015: To take testimony for and against a proposed incorporation within Franklin County in the following general area: The area of west Pasco generally north of Sylvester Street, south of I-182, east of Road 100, and west of Road 40, commonly referred to as the “doughnut hole.”

Commissioner Peck opened the meeting with an explanation of the purpose of the meeting; to take comments on the proposal for incorporation of the donut hole.

Commissioner Peck notified the audience that the Franklin County Board of Commissioners had received a letter (Exhibit 8) this afternoon from the City of Pasco, signed by Mayor Watkins. Mayor Watkins asked that the letter be made a part of the official record. Commissioner Peck stated that he is happy to make the letter a part of the official record, however, as the Chair, he is unwilling to read the letter into the record as some of the content in the letter is inconsistent with the Chair's position and with the position that the Board of County Commissioners has taken. The letter will be made available for public review. Commissioner Peck welcomed someone from the City to read the letter into the record, if they chose. The letter was read into the record by Rick White.

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Citizens were invited to speak on the topic of incorporation or closely-related subjects.

The following people spoke:

1. Franki Erickson, Road 68
2. Bill Venema , 8517 W. Court
3. Rick White, City of Pasco
4. John Pietrusiewicz, 2909 Rd. 72
5. Pam Kelly, Bell Street
6. Larry Gomez, 2105 N Rd 72
7. Alicia Chabrier, Rd 76
8. Chris Abraham, 3913 Rd. 92
9. Candy Hales, 9415 Merlot Drive
10. Roger Lenk, 1817 N. Rd 76
11. Jeff Hendler, 3016 Rd 56 & 3106 Rd 61
12. Theresa Oliver, 2912 Rd. 92
13. James Kilgore, 2608 Rd. 92
14. Mark MacFarlan, 6208 W. Argent Rd.
15. Charlotte Heyen, 7421 W. Wernett
16. Jay Frichette, 2521 Rd. 76
17. Lester Storms, 8614 Bell Street
18. Larry Schatz, 2908 Rd. 80
19. Suzanne Baird, 6121 W. Richardson Rd.
20. Cherie Jones, 2121 Rd. 76
21. Al Yenney, 936 N. Beech Ave
22. Rob Green, 2812 N. Rd 84
23. Jesse Rodgers, 7309 W. Wernett Rd.

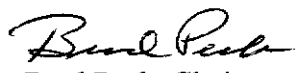
Motion – Commissioner Miller moved for adjournment. Second by Commissioner Koch. 3:0
vote in favor.

Adjourned at 9:03 p.m.

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There being no further business, the Franklin County Board of Commissioners meeting was adjourned until June 20, 2012.

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON


Brad Peck, Chairman


Rick Miller, Chairman Pro Tem


Robert E. Koch, Member

Attest:

Clerk to the Board



Franklin County

June 13, 2012

Robin Smith
Legal & Compliance Director, LightSpeed Networks

LS Networks' Shareholders

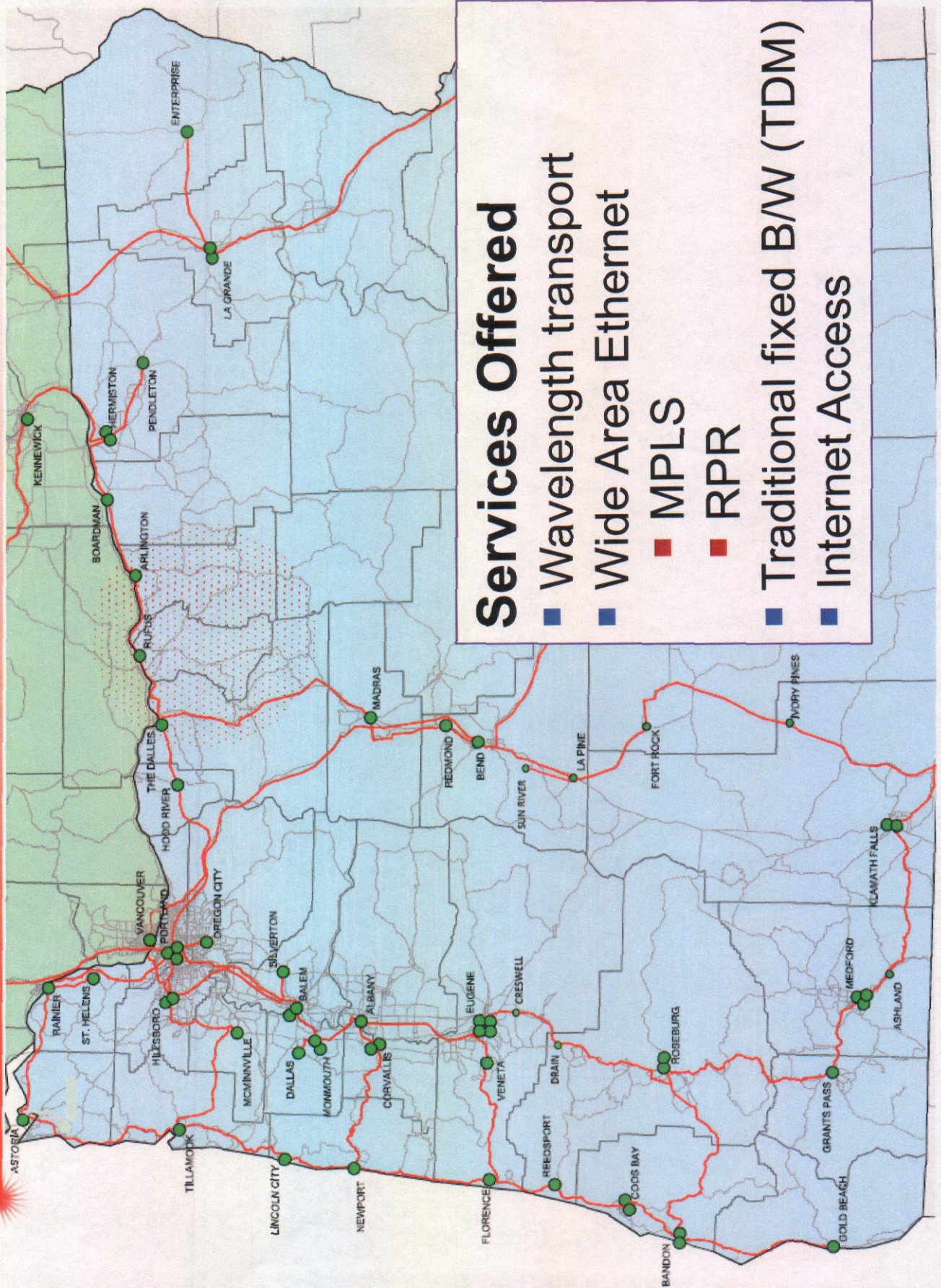
- Oregon Rural Electric Cooperatives
 - Central Electric Cooperative
 - Umatilla Electric Cooperative
 - West Oregon Electric Cooperative
 - Douglas Electric Cooperative
 - Hood River Electric Cooperative
- Native American Tribal Corporation
 - Coquille Economic Development Corporation



LS Networks' Overview

- LightSpeed Networks, Inc. (dba "LS Networks") is a privately held Oregon corporation, headquartered in Portland
- LS Networks is currently operating as a Competitive Inter-Exchange Carrier (CIXC) and Competitive Local Exchange Carrier (CLEC) in the States of Oregon and Washington

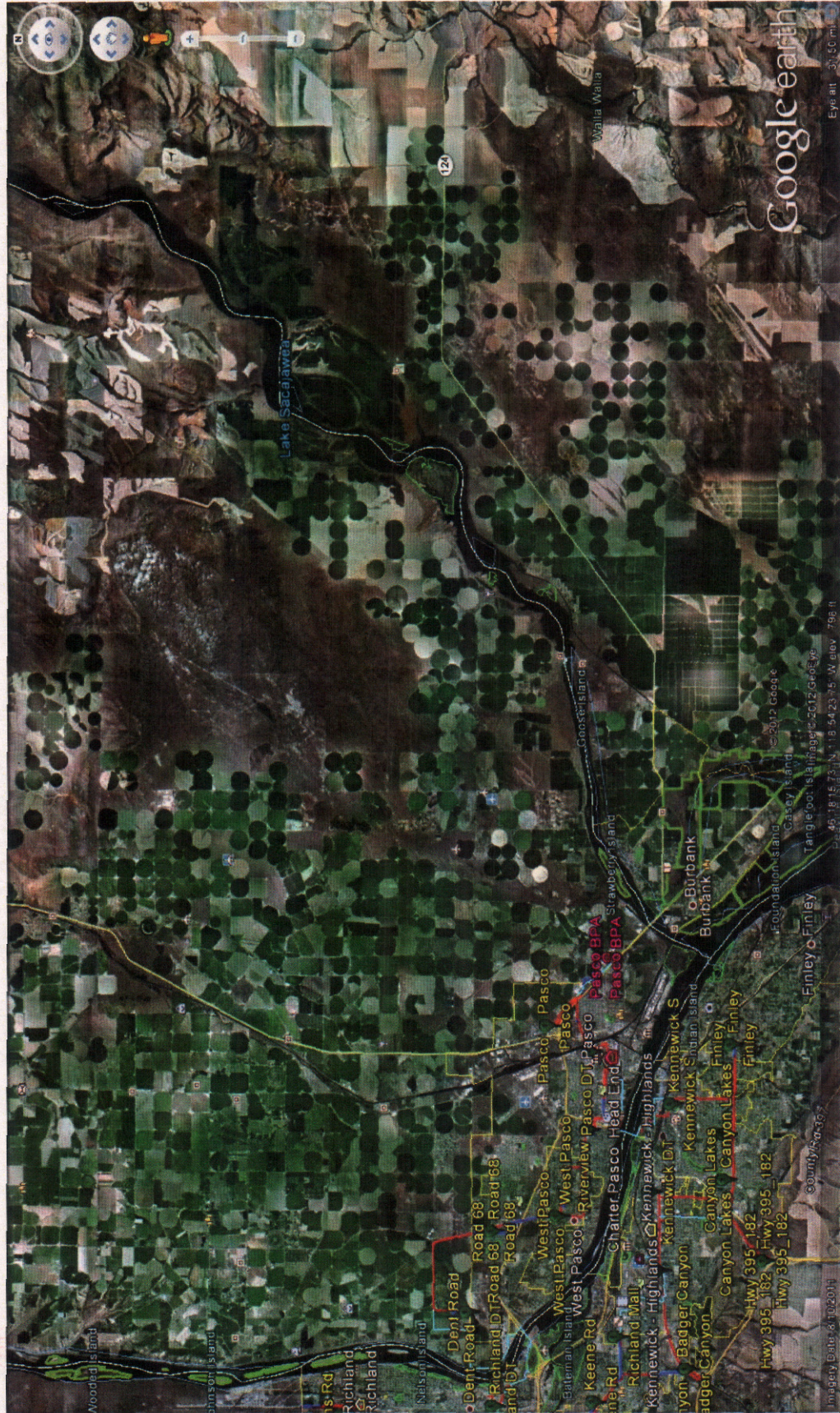
LS Networks
Bridging the broadband gap at LightSpeed



What we're trying to accomplish

- Extend our network into Washington State
 - Over leased capacity
 - Plant facilities currently in place
- Provide network services to Franklin Area
 - Initially over other leased facilities
 - Ultimately over LS Networks'-owned facilities
- Typically arrangements are necessary to place privately-owned assets in the public Rights of Way
 - Non-exclusive Franchise Agreement
 - Telecom Utility License
- Cost to the County
 - None; probable de minimus revenue stream

Initial Route



The Process

- Franchise Ordinance the first step
- After the Franchise is granted by the County Commission specific routes and permitting occurs prior to building

LS Networks respectfully requests the thoughtful consideration and cooperation of the Franklin County Commission to pass this Ordinance

- Cities, Towns and Counties that have adopted the Franchise:
 - Union Gap, Grandview, Benton City, Prosser, Granger, Zillah, Selah, Moxee, Wapato, Yakima County, Benton County, Naches, Richland, Pasco, Kennewick, and Yakima City

Benefits to Franklin County

- Improved Bandwidth/Internet Access
 - Large Wireless Company 4 G
 - Good for business, hospitals, schools, and city government
 - Local residents, tourists and visitors
- Revenue from Franchise Agreement
 - Property tax – per foot
 - Pole attachment agreement fees if county owned
 - Permit fees



Franklin County

Thank you

Robin Smith
Legal & Compliance Director, LightSpeed Networks

Benton & Franklin Counties Office of Public Defense

2011
Annual Report

Franklin County
Operations

As the Indigent Defense Coordinator for Benton and Franklin Counties, I am proud to present the 2011 Annual report for our Franklin County operations. This report recaps many of the highlights of our operations in 2011 including a year-end financial snapshot, and also summarizes our key achievements including achievements that fulfilled strategic goals set at the beginning of 2011.

A Strategic Plan for 2012 is being published simultaneously to this report. I encourage you to review that plan if you are interested in what this office plans to accomplish in 2012 and how these goals align with our stated Mission and Values.

In 2011, we made great strides in advancing our Mission and Values, which are stated below, and we will continue to do the same in 2012.

Very truly yours,

Eric Hsu, Attorney at Law
Indigent Defense Coordinator

MISSION STATEMENT

The Mission of the Benton & Franklin Counties Office of Public Defense is to provide quality, cost-effective, legal representation to indigent and other qualified persons charged with criminal offenses, or otherwise facing incarceration or loss of liberty interest, so as to protect their Constitutional and other legal rights, educate them about the criminal justice system, and champion the interests of justice. The Benton & Franklin Counties Office of Public Defense will always be mindful of the fact that the resources that enable it to advance its Mission are entrusted to it by the taxpayers of Benton & Franklin Counties, and as such it will constantly strive to improve the efficiency and effectiveness of its team, of system which it manages, and of systems of which it is a part of, so as to always be a good steward of such resources.

VALUES

In order to advance its Mission, all Benton & Franklin Counties Office of Public Defense staff and contractors share the following Values.

| | | |
|----------|---------------------------------------|--|
| A | Teamwork | We are constantly seeking out and developing inter-office and intra-office synergistic relationships through which to accomplish shared goals and create win-win outcomes. |
| B | Effectiveness & Efficiency | We are always choice-driven and introspective so as to maximize effectiveness (do that which has the most effect on advancing the Mission) and efficiency (which consuming the least amount of resources) |
| C | Quality | We take pride in quality work product in all aspects of what we do. |
| D | Cost-Effectiveness | We recognize the fiduciary duty we owe to the taxpayers who provide the resources by which we can advance our Mission and always strive to maximize cost-effectiveness without jeopardizing quality. |
| E | Compassion & Fairness | We recognize that all members of the public with whom we interact and for whom we provide services are fellow community members and citizens and we will treat them with respect, compassion, and fairness. |
| F | Effective Risk Management | We will always be mindful of the liability related interests of Benton & Franklin Counties and constantly seek to minimize the exposure of the Counties to liability risk. |
| G | Continuous Improvement | We recognize and embrace the dynamic nature of many factors that affect our ability to advance our Mission and as such, constantly seek out, and take action on, ways to improve every aspect of our operations. We will never settle for "good enough" or accept that the "way it has always been done" is necessarily the best way to continue to do it. |

District Court Operations

Summary

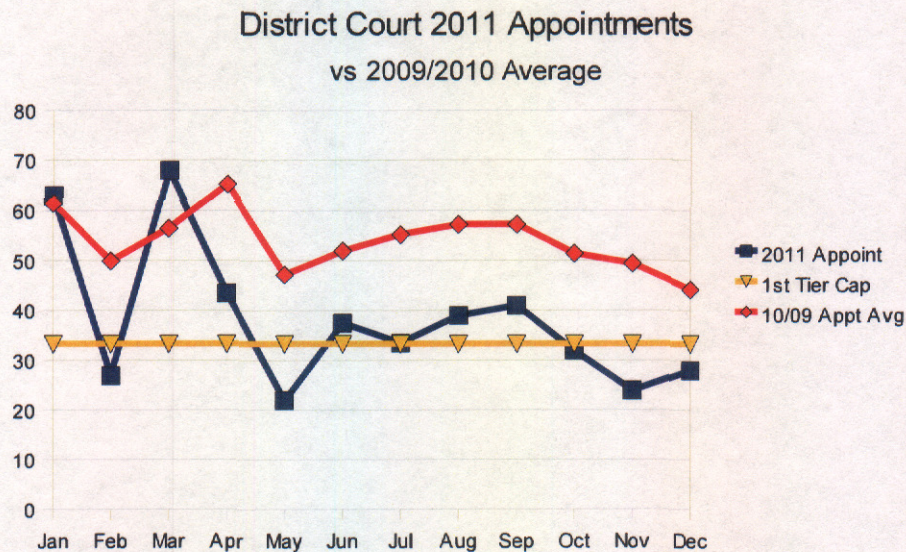
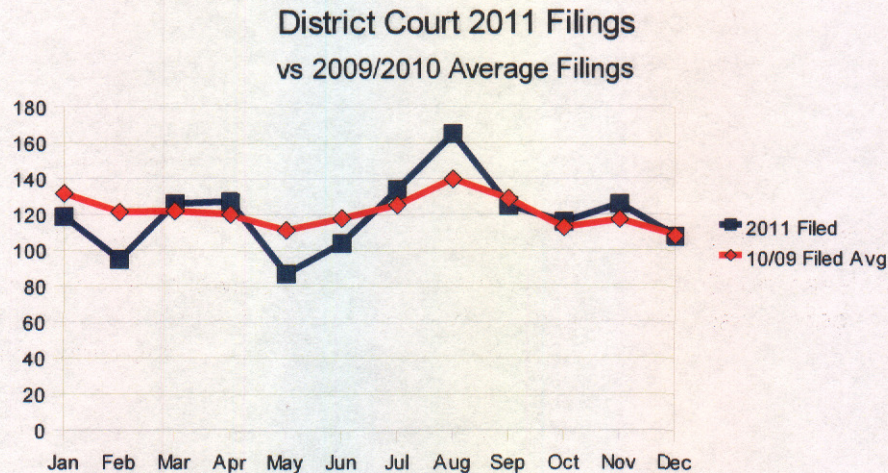
Franklin County provides public defense services for all criminal cases that are pending in Franklin County District Court. In 2011, the defender staffing in District Court was as follows:

- **1 attorney (contractor)** – provisional representation at all in-and out-of-custody initial appearances.
- **1 attorney (limited contract contractor)** – all felonies filed in District Court¹
- **2 attorneys (contractors)** – all pre-trial criminal cases pertaining to new criminal charges.

¹ This contract was implemented toward the end of 2011 when it was recognized that caseloads in excess of felony contractor contract capacity was likely to be a recurring issue and that felonies filed in District Court could be more efficiently and effectively represented by counsel separate from the attorneys on the Superior Court defense panel.

2011 Operational Highlights

- There is quite a bit of good news as far as resource usage goes in District Court.
- As shown in the following caseload charts, 2011 District Court caseload trends were quite favorable. While filings were in line with previous year averages, appointments dropped significantly².



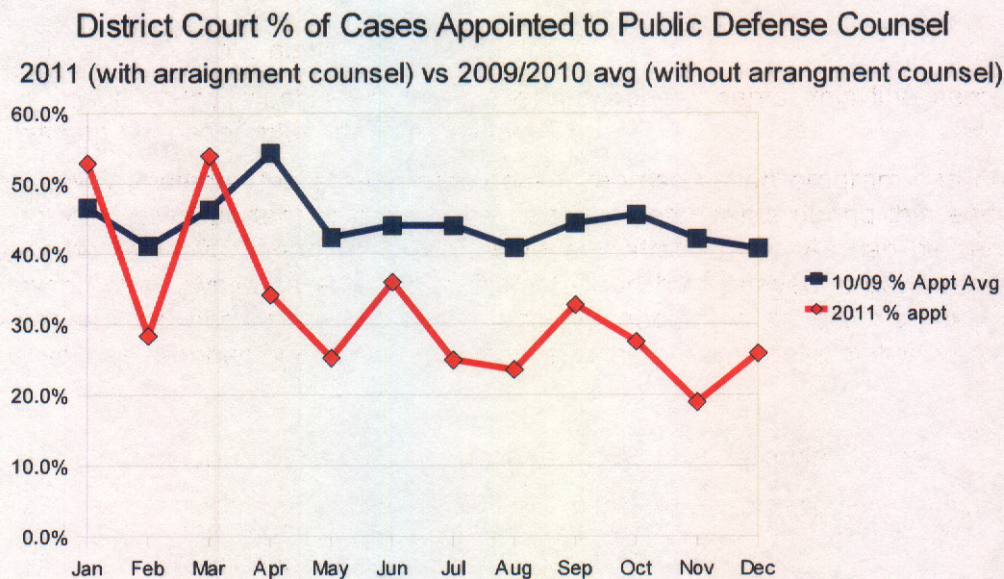
- At the end of the year, even with a change in public defense contracts that resulted in a number of cases being double counted³, case appointments stayed largely within the

² This appears to be due to the arraignment counsel program in District Court that was implemented in 2011 for the first time. This program and its results will be discussed in more detail later in this report.

³ When a public defense contractor leaves their contract, especially when it is not their choice as in this case,

1st tier capacity of the public defense contracts⁴.

- As a result of the much lower than average appointments, this line item realized a significant budget surplus (detailed below)
- The newly implemented arraignment docket representation program has proven itself to not only be important to protect the rights of defendants during this early juncture, but to be very effective in resolving low-level matters early. As can be seen with the following chart, while case filings in District Court have stayed largely within historical averages, the percentage of cases actually appointed to pre-trial public defense counsel has dropped significantly, indicative of the effectiveness of this program.



Upcoming Developments

- There is some concern in the public defense community in Washington State about the upcoming implementation of a modification to the Rules of Practice for District Court as implemented by the Washington Supreme Court in the fall-out after *State v. A.N.J.*⁵

they are only limited to a set amount of time when they continue to be responsible for their cases. After this set period of time, any cases left unresolved are transferred to the incoming attorney. This eliminates any claim by defendants that they were represented by an attorney who was no longer being paid, and that the attorney was therefore providing ineffective assistance of counsel.

- 4 Franklin County District Court contracts have two tiers of caseload capacities. The first tier, up to 200 cases, is the caseload for which attorneys are compensated on a monthly basis (their "base compensation"). If they exceed this caseload tier (which they always have in past years) then they get paid additional compensation on a per-case basis for each case over the tier level.
- 5 *State v. A.N.J.* was a landmark *ineffective assistance of counsel* case out of Grant County. In this case, a juvenile offender was counseled to plead guilty to a serious felony sex offense after less than an hour of consultation with his attorney, with no independent investigation or evaluation of the case by anything resembling a defense team.

The Washington Supreme Court decided to require that all public defenders "certify" that they comply with a number of standards recommended by the Washington State Bar Association and adopted by the Supreme Court. The unfortunate part in all of this is that some of these standards are "one size fits all" and largely aligned with local practices in many of the larger west side jurisdictions. The most troubling of these standards is the "hard case cap" of 400 cases. On its own, this case cap requirement is not too concerning. After all, both District Court pre-trial attorneys only have "part-time" contracts with caseloads that probably will not exceed 200 cases per year. However, there have been provisions in this standard, that have been circulated in draft form, that mandate a case weighting system that would make every case that is resolved at arraignment a mandatory "full credit." We are still in the process of evaluating the potential impact of this on our arraignment representation teams (both in-custody and out-of-custody).

District Court Financial Update

Line Item 512.81.41.0260/0261:

Total District Court Appropriation for 2011⁶: **\$129,850.00⁷**

Total realized budget surplus FY2011 **\$26,935.60**

Superior Court Operations

Summary

This office provides public defense services for all Superior Court criminal cases as well as contempt cases that may result in incarceration. In 2011, the defender staffing in Franklin County Superior Court was as follows:

- **3 contract attorneys** - all pre-trial criminal cases pertaining to new criminal charges
- **1 contract attorney (reduced rate)** – LFOs and Child Support
- **1 contract attorney (reduced rate)** - Bindovers⁸
- **1 contract attorney (reduced rate)** – Involuntary Treatment Act ("ITA") defense – shared between Benton and Franklin Counties

2011 Operational Highlights

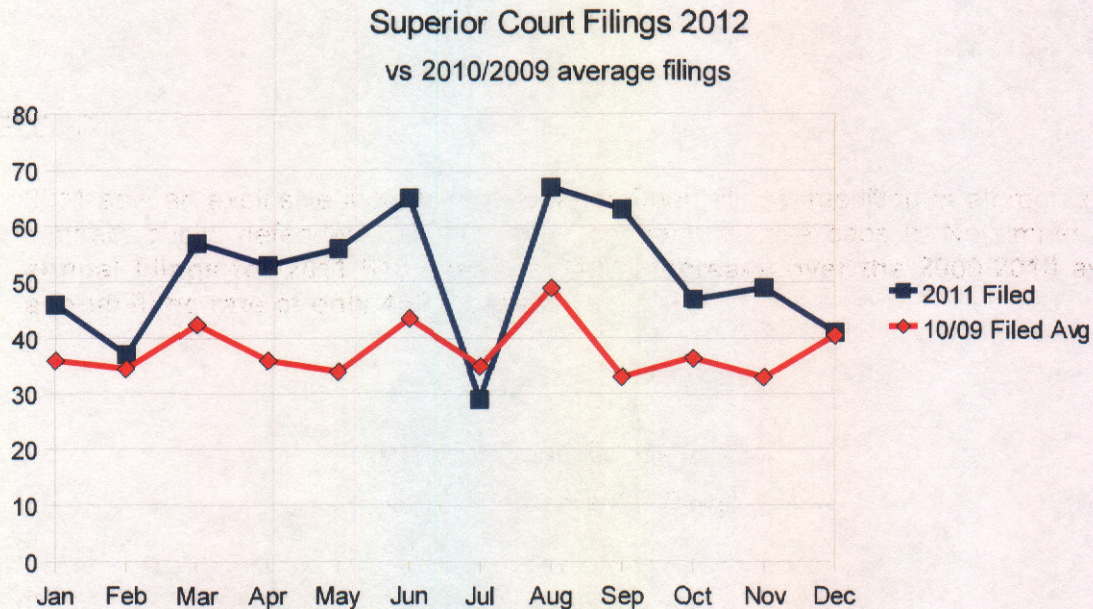
⁶ This is 50% of the total 2011-2012 biennial budget appropriation for this line item.

⁷ This amount includes both the District Court contracts line item as well as a separate line item for City of Connell cases defended under contract with that city.

⁸ Sometimes the Prosecutor's Office will file felony matters in District Court with the intent to negotiate the case to a misdemeanor plea. These cases are called "bindovers" because often if they are not resolved in District Court, then they will be boundover to be tried in Superior Court. Historically, bindover cases were assigned to Superior Court attorneys who would receive 1/2 of a credit for them (essentially \$250). This wasn't much of an issue when attorneys were not reaching their contract caseload caps. However, in 2011, when it became clear that they would reach their contract caseload caps, it was apparent that representation on this docket could be provided in a more effective and efficient manner with a separate contract. Such a contract was awarded and Franklin County now pays \$175 per bindover case while they remain in District Court, saving \$75 per case.

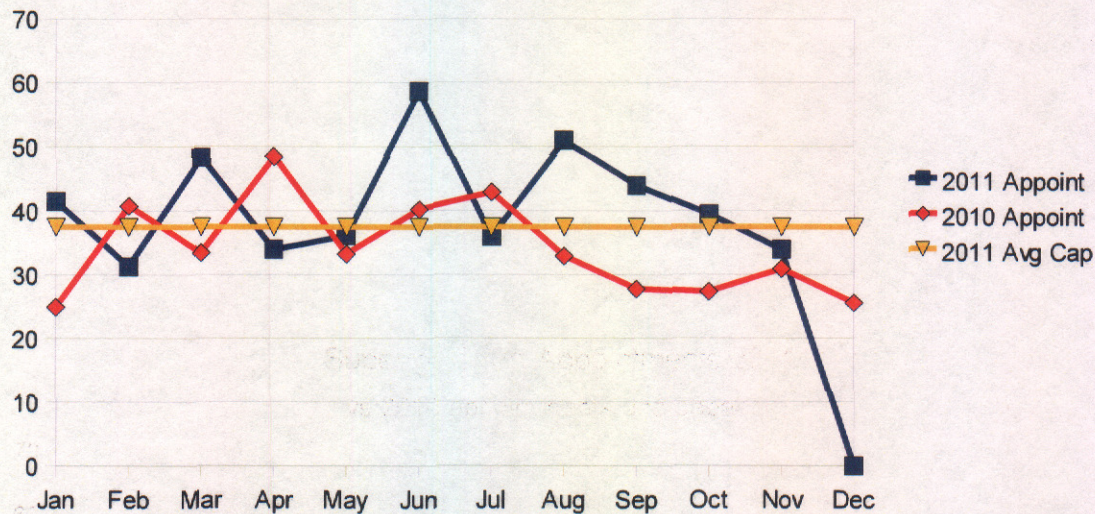
CASELOAD:

- 2011 saw an explosive increase in Superior Court filings, resulting in all regular panel contract public defenders reaching their contractual case caps in November. **Total annual filings for 2011 610 cases, a 34.5% increase over the 2009/2010 average annual filing rate of only 453.5 cases.**



- Case appointments were similarly high, and as mentioned above, resulted in all contract public defenders reaching their contractual case caps in November. To provide continuity in the ability to provide defense services, “per case” overflow contracts were executed with three additional attorneys to provide public defense services in the months of November and December.
- Based on early caseload metrics in 2012 (from which total annual case filings of upwards of 600 are again predicted, it appears that this filing increase trend may be here to stay. As such, and in order to reduce the strain on individual attorney caseloads, and the potential ineffective assistance of counsel issues, it may be necessary to start phasing in overflow attorneys earlier on in the year as opposed to placing them into service only after the panel attorneys cap out. A decision on whether to do this will be made later on in the year when data for a full half-year's case filings are available to make better projections for the full year.

Superior Court Appointments 2011
vs 2010 appointments and capacity



- **Hourly case report⁹**
 - *State v. Luna Luna* (Murder 2) – resolved in February, 2012 with trial
 - *State v. Morales* (Murder 1) – resolved March, 2012 with trial
 - *State v. Tashia Stuart* (Murder 1) – Pending, Thompson and Connick (limited)
 - *State v. Todd Stuart* (Murder 1) – Pending, Silverthorn
 - *State v. Hart* (Murder 2) – Pending, Johnson
 - **All hourly cases are presently compensated at the rate of \$75 per hour.**
- **Staffing report**
 - There are no 2011 staffing changes to report. However, the contract for Nicole Preszler,

Superior Court Financial Update

Line Item 512.819.4163:

Total Superior Court Contracts Appropriation for 2011: **\$960,349.00**

Total realized budget surplus FY2011 \$93,533.00

Line Item 512.819.4103

Total Misc Professional Services Appropriation for 2011: **\$612,950.00**

⁹ Only homicide cases (defined as only including Aggravated Murder, Murder in the First or Second Degree, Manslaughter, Homicide by Abuse, Homicide by Controlled Substance, and vehicular homicide) and persistent offender crimes (three strike violent felony and 2 strike sexual abuse felony cases that are qualified for a life sentence without parole) qualify for hourly billing.

Total realized budget surplus FY2011

\$76,363.00

Sexually Violent Predator Cases

- Effective July 1, 2012, all Sexually Violent Predator Case defense will be managed exclusively and completely completely by the State Office of Public Defense. No further expenditure of County funds will be necessary whatsoever.

Juvenile Justice

- This office continues to assist with contract compliance *only when requested* and when a final noncompliance letter is needed. In the last three months, two such letters have been necessary, both to the same attorney.

2010 Strategic Improvement Initiatives

Part A: Improvements in Effectiveness.

The Franklin County Office of Public Defense recognizes that unless it is *effective* at what it does, the reason for its existence is limited. As such, we constantly strive to improve *how* we go about advancing our Mission. Here is a summary of ways in which we have increased our effectiveness in 2011:

1. Build Alliances with organizations within the community that share common clientele and/or missions with this office (Listed Strategic Goal for 2011)

In 2011, this office undertook to establish alliances with numerous community organizations that share common clientele and/or missions with the Franklin County Office of public Defense. A good part of this consisted of working with TC-GIVES, a gang intervention initiative/taskforce started and staffed by local government agencies, with a focus on coordinating the more than 100 local government and non-profit service agencies that provide services for at risk, and gang influenced youth and young adults.

Alliances or working relationships were established with the following organizations:

- Community Action Connections (Formerly Community Action Committee) – **Housing**
- Worksource (no alliance established yet, but referrals to this agency were made) – **Employment**
- Columbia Legal Services (no alliance established yet, but numerous referrals to this agency were made) – **Civil legal assistance**
- Grace Clinic; Benton/Franklin Counties DHS; Lourdes Health Network (contractor for Benton/Franklin County jails) – **Mental health**
- Grace Clinic; La Clinica – **Medical**
- TC-GIVES; Teen Challenge; Victory Outreach – **Gang involvement**
- Teen Challenge; Tri-Cities Substance Abuse Provider Directors – **Drug/Alcohol**

Goal:**Alliances established by December 31, 2011****Achieved:****Alliances established for most categories by December 31, 2010****2. In-House Training Program (Listed Strategic Goal for 2011)**

In an effort to improve the quality of public defense representation as well as facilitate attorney compliance with the statutorily and contractually mandated requirement of seven continuing legal education ("CLE") credits per year, an in-house training program was started in 2010. We applied to the state bar association for a fee waiver for sponsoring CLEs and also applied for recognition of the CLEs from the State Office of Public Defense. Furthermore, we were able to recruit local speakers and trainers who were all willing to donate their time to training opportunities for our defenders. As a result, we were able to, in 2010, provide over 8 hours of local and applicable training to public defenders. All of these training CLEs were free of charge both to participants and to Franklin County¹⁰. As was planned, this program was expanded in 2011 during which we offered 15 hours of CLE training.

Goal:**At least 10 hours of training opportunities by December 31, 2011.****Achieved:****15 hours of training opportunities offered before December 31, 2011.****3. Gang Intervention and Awareness**

While certainly not at the level of Yakima County, the gang crime problem in both Benton & Franklin Counties is a growing one. Law enforcement agencies in the areas have certainly taken note and have brought substantial resources to bear on gang related criminal activity. From a resource allocation perspective, this means that the Office of Public Defense will likely have to shoulder a greater burden in the form of greater numbers of case filings and greater need for gang-crime related training. However, the fact that gang crime is just on the cusp of being a significant issue also presents a unique opportunity. As opposed to Yakima County, where gangs have gained such a significant foothold in the community that the hopes of ever turning the tide seem grim, our local situation is much more hopeful. At the beginning of 2011, I committed to exploring ways in which this office could become involved in actively addressing the gang problem instead of just passively waiting for, and defending gang-related cases as they happened.

While training opportunities were presented in conjunction with gang intervention groups (as planned) and referrals continue to be made to both Teen Challenge and Victory Outreach, the biggest achievement in 2011 has been strong participation in TC-GIVES, a multi-disciplinary, multi-agency, bi-county government agency coalition that is working to address the gang problem across the entire spectrum starting from early prevention efforts all the way to reintegration efforts after incarceration. TC-GIVES has largely taken over the efforts that the

¹⁰ The training classrooms at the Benton-Franklin Health Department buildings were utilized at no charge.

Juvenile Justice Advisory Board had started in this regard.

Goal: Establish working partnership with gang intervention organizations, and request and provide gang case training for public defenders by **September 31, 2011**; Continue working with Juvenile Justice Advisory Board in their gang intervention efforts.

Achieved: Continued working relationship with Teen Challenge and Victory Outreach and sponsored gang case training for public defenders, all by **June 30, 2011**. Now involved heavily in TC-GIVES board including in sub-committee working on funding of resource coordinator and non-profit partner, as substitute for Juvenile Justice Advisory Board.

5. Establish Performance Measures to gauge the quality of contract attorneys.

While one of the major challenges of this office continues to be the effective supervision of contract attorneys, especially when it pertains to measuring their performance levels, this goal was placed on hold for 2011. The reasoning for this is that a landmark case in King County, *Dolan v. King County*, leaves very much open the question of how much control and oversight a county may exercise over its contract attorneys before the contract attorneys become legally eligible for county benefits (in the case of this lawsuit, the issue was PERS benefits, to which the Supreme Court agreed they were entitled). The unfortunate part about *Dolan v. King County* is the ambiguity it presents to the situation. While the court found that the **combination of factors** present in the *Dolan* case required that the contract attorneys be entitled to PERS benefits, it refrained from much comment as to which factors were important considerations and which were not, or on how far “over the line” King County had gone. As such, there is insufficient guidance at this point as to how much contractual oversight a County may exercise over contractor public defenders before they are considered to be entitled to PERS benefits.

In light of the decision in *Dolan*, and until further guidance can be gleaned from 1) the steps King County is forced to take to comply with this ruling; 2) discussions about best practices amongst professional public defense groups; and 3) the success of any legislation to address this issue, I have decided to place any performance measure schemes for contract attorneys on hold. Even so, I will continue to address performance issues (albeit in a reactive fashion) when raised through complaints, and will continue to enforce full contract compliance.

Part B – Improvements in Efficiency

The Franklin County Office of Public Defense recognizes that the resources by which it advances its Mission are limited, and perhaps more importantly, entrusted to it by the taxpayers of this County. As such, it always strives to improve the *efficiency* by which it advances its Mission. Here is a summary of ways we have improved our *efficiency* in 2011:

2. Uniform Guidelines for Investigator/Expert Funding Approval (Listed Strategic Goal for 2011)

I committed, at the beginning of 2011, to develop uniform guidelines for investigator/expert funding approval including case category specific funding guidelines for investigative services. This initiative has come to focus mainly on investigative services, and the main feature of this initiative has been the development and publication of rigid funding guidelines, including case

funding limits based on the category of cases (with few opportunities for exceptions). The success of this program is not evident in the raw numbers of the following chart where 2010-2011 investigator expenditures increases only slightly lagged the increase in filings. To get the full picture, it is necessary to consider the substantial increase in Serious Crimes¹¹ being filed in Franklin County. As of August, 2011, the year-to-year growth of Serious Crime filings in Franklin County (ie as compared to 2010) was 101%. In light of this increase in Serious Crime filings (where the majority of the investigative services usage is dedicated) the increase of expenditures of only 33.3% shows that this new approach is quite effective at containing costs.

Efficiency savings:

| Period Measured | Beginning/End Filings | % Increase in Filings | Beginning/End Expenditures | % Change in Expenditures |
|-----------------|-----------------------|-----------------------|----------------------------|--------------------------|
| 2010-2011 | 445/616 | +38.40% | \$74,271/ \$99,006 | +33.30% |
| 2009-2011 | 505/616 | +21.90% | \$104,704/ \$99,006 | -5.40% |

3. Hourly Case Accountability (Listed Strategic Goal for 2011)

As reported in my 2011 Strategic Plan, hourly cases represent the biggest source of budget "surprises." In an attempt to eliminate these surprises, and as stated in my 2011 Strategic Plan, I started to meet and confer with attorneys on hourly cases in order to co-manage the financial needs of their cases. In many cases this has involved assisting with expert searches, recommending different expert use strategies¹², and ensuring that expenses are planned for, pre-approved, and do not exceed budgeted amounts. While it is difficult to determine whether this has reduced expenditures, it is clear that it has greatly improved cost predictability, and therefore the ability to properly budget for cases.

Goal: Implement hourly case accountability policies including a tracking system for budgets **by March 31, 2011**; Start tracking of all hourly cases including meeting regularly with assigned attorneys **by April 30, 2011**.

Achieved: Implemented and started tracking hourly cases/meeting with assigned attorneys at least quarterly, starting **March 31, 2011**.

4. New Hourly Case Appointment Roster

Historically, the assignment of attorneys to hourly cases has been made from the roster of

¹¹ For purposes of statistical review in this office, Serious Cases is defined as any of the following cases: Assault 1 and 2, Robbery 1 and 2, Drive By Shooting, Homicides, Attempted Murder, and first and second-degree sexual assault crimes.

¹² For example, one strategy that has seen some success has been a bifurcated approach to expert services where an expert is first paid a much smaller consulting fee to review the case/evidence to see if he/she is able to assist, and only after the attorney of record is confident that the expert's services would be beneficial, is the full consultation fee paid. This is contrary to past practices where experts were usually simply retained for a case without regard to whether their services would actually be helpful.

attorneys who are on the Superior Court felony defense panels. Furthermore, because of the complexity of most hourly cases, the pre-existing Superior Court defense contracts provided that a second attorney would, in most cases, be appointed if requested and justified.

In mid-2011, suspecting that this process of appointing two attorneys on individual hourly cases was not cost-effective, I embarked on a study that involved intensive audit and comparison of co-counsel billings on two-attorney hourly cases. What I found was that more than 15% of the attorney fee billings on these cases were duplicative (eg when both attorneys attended a meeting, appeared in court, met with opposing counsel, met with investigators, or met with the client, both attorneys would bill). Furthermore, a review of applicable statutes and standards, showed that there was absolutely no requirement to appoint two defense attorneys on these cases.

As a result of my study, I implemented a new Hourly Case roster and sought RFQs to fill it. In Fall, 2011, a roster of 4 attorneys was selected for this roster with the understanding that they would be appointed to all hourly cases in both Benton and Franklin Counties¹³, but that they would never qualify for co-counsel to assist them. I am also committed to working together with the Clerk's Offices in both Benton and Franklin Counties to ensure that appointments are equitable, and do not interfere with pending homicide cases.

Efficiency Savings: the first appointment from this roster was made in December, 2011 and the second was made in February, 2012. While efficiency metrics will be difficult to calculate because it is impossible to determine what would have been billed in the absence of this new program, it is estimated that savings of up to 15% of gross attorney billings are possible on each hourly case.

5. District Court In-Custody Representation Program (Program Update)

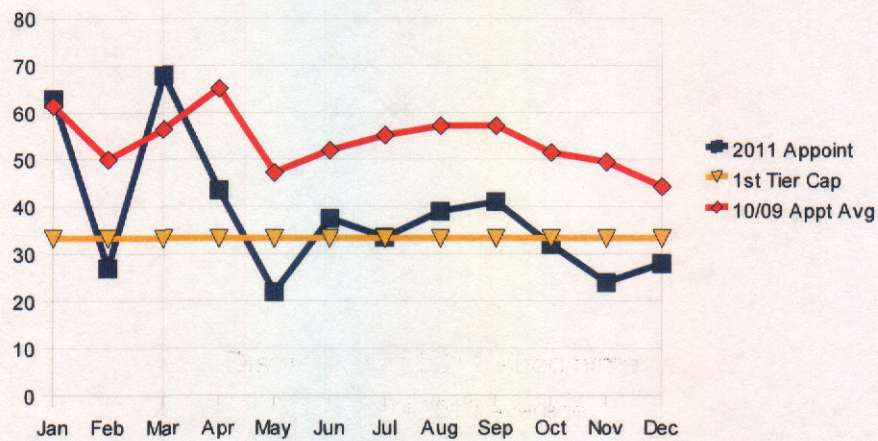
In February, 2011, following approval of funding by the Board of Commissioners, an Arraignment Counsel Program ("ACP") for Franklin County District Court was implemented. This program ensures that there is a defense attorney present at all District Court arraignments, in- and out-of-custody, to provide provisional representation to eligible defendants. The purpose of this program is two-fold. First, the practice of providing provisional representation at arraignment brings Franklin County in line with the practices of a majority of the jurisdictions in Washington State as well as a common (and reasonable) interpretation of the court rules on the same. Second, with the cooperation of the PA's Office, a large number of cases were anticipated to be resolved at arraignment, resulting in significant cost-efficiencies since the cases would therefore not need to be assignment to pre-trial defense attorneys and would not need to be re-docketed numerous times.

2011 Efficiency Savings:

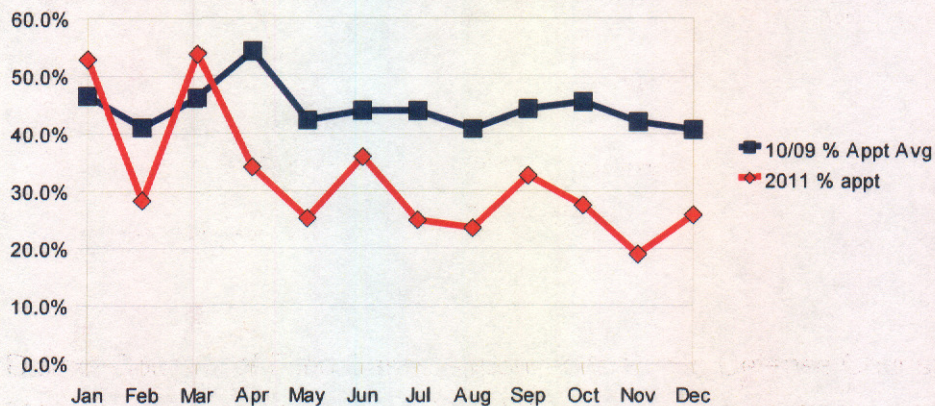
The actual dollars and cents aspect of the efficiency savings has been difficult to estimate since there are many components to such savings: reduced jail usage, reduced court resource usage and reduced public defender usage. However, the reduced caseload of pre-trial public defenders in District Court (shown in the following chart) has been tremendous, and is a testament to the effectiveness of this program.

¹³ The cases would be paid for by the respective county, much as billing for the investigators, who also hold bi-county contracts.

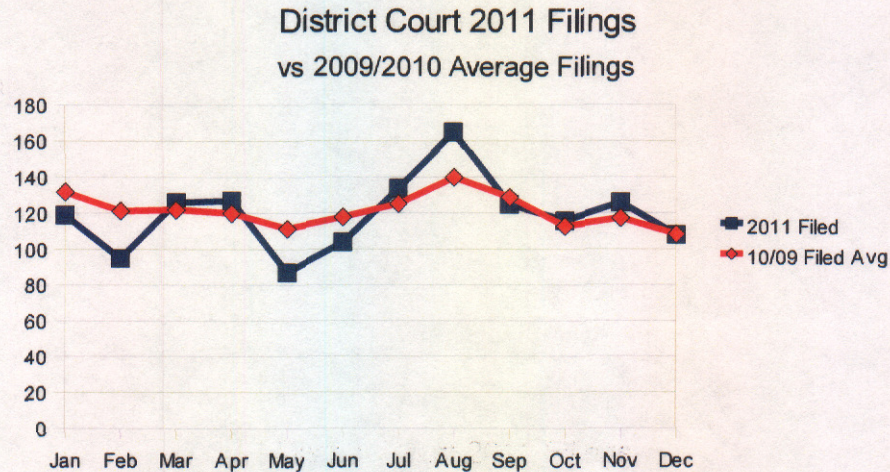
**District Court 2011 Appointments
vs 2009/2010 Average**



**District Court % of Filed Cases Appointed to Public Defense Counsel
2011 (with arraignment counsel) vs 2009/2010 avg (without arraignment counsel)**



Above two charts show overall appointments as well as percentage of cases being assigned pre-trial public defenders dropping significantly in 2011. Next chart shows that case filing patterns are largely the same from 2010 to 2011.



6. Direct Billing of RCW 10.77 Competency Evaluation Costs to State

In 2009, this office started the practice of direct billing the costs associated with "second opinion" competency evaluation of defendants whose competency is being questioned. This largely eliminates the cost of these expert evaluations, which can run anywhere from \$900 to \$2,500 per case, depending on the complexity of the case, as a County burden.

This concludes the 2011 Annual Report for the Franklin County Office of Public Defense. As stated at the beginning, I encourage you to also read this office's Strategic Plan if you are interested in learning about this office's new strategic initiatives for 2012.

Very truly yours,

Eric Hsu, Attorney at Law
Indigent Defense Coordinator

Benton & Franklin Counties Office of Public Defense

2012
Strategic Plan

Franklin County
Operations

MISSION STATEMENT

The Mission of the Benton & Franklin Counties Office of Public Defense is to provide quality, cost-effective, legal representation to indigent and other qualified persons charged with criminal offenses, or otherwise facing incarceration or loss of liberty interest, so as to protect their Constitutional and other legal rights, educate them about the criminal justice system, and champion the interests of justice. The Benton & Franklin Counties Office of Public Defense will always be mindful of the fact that the resources that enable it to advance its Mission are entrusted to it by the taxpayers of Benton & Franklin Counties, and as such it will constantly strive to improve the efficiency and effectiveness of its team, of system which it manages, and of systems of which it is a part of, so as to always be a good steward of such resources.

VALUES

In order to advance its Mission, all Benton & Franklin Counties Office of Public Defense staff and contractors share the following Values.

| | | |
|----------|---------------------------------------|--|
| A | Teamwork | We are constantly seeking out and developing inter-office and intra-office synergistic relationships through which to accomplish shared goals and create win-win outcomes. |
| B | Effectiveness & Efficiency | We are always choice-driven and introspective so as to maximize effectiveness (do that which has the most effect on advancing the Mission) and efficiency (which consuming the least amount of resources) |
| C | Quality | We take pride in quality work product in all aspects of what we do. |
| D | Cost-Effectiveness | We recognize the fiduciary duty we owe to the taxpayers who provide the resources by which we can advance our Mission and always strive to maximize cost-effectiveness without jeopardizing quality. |
| E | Compassion & Fairness | We recognize that all members of the public with whom we interact and for whom we provide services are fellow community members and citizens and we will treat them with respect, compassion, and fairness. |
| F | Effective Risk Management | We will always be mindful of the liability related interests of Benton & Franklin Counties and constantly seek to minimize the exposure of the Counties to liability risk. |
| G | Continuous Improvement | We recognize and embrace the dynamic nature of many factors that affect our ability to advance our Mission and as such, constantly seek out, and take action on, ways to improve every aspect of our operations. We will never settle for "good enough" or accept that the "way it has always been done" is necessarily the best way to continue to do it. |

OVERVIEW

In 2012, the Benton & Franklin Counties Office of Public Defense ("BFOPD") will continue to work toward advancing its Mission. In particular, BFOPD will be focusing on Strategic Goals identified and detailed in this report.

SUMMARY OF STRATEGIC GOALS

| Strategic Goal | Value Alignment | Deliverables | Completion |
|--|-----------------|--|--|
| 1. Implement a community-centric communication strategy encompassing multiple communication channels | B, C, D, E, G | <ul style="list-style-type: none"> Survey of staff and contractors to determine what commonly request information or documents can be strategically positioned for easier public access Establish baseline meaningful metrics for volume of requests or questions before redesign Redesign website (just OPD portion) as well as written and other communications channels to best provide access to frequently requested information and documents so as to facilitate access and reduce staff/contractor resource use Conduct 6 month analysis of metrics by December 31, 2012 | <p>Implementation by September 1, 2012</p> <p>3 month analysis of metrics by December 31, 2012</p> |
| 2. Staff leadership development | A, B, C, F | <ul style="list-style-type: none"> Finalize, distribute and explain Leadership Mindset Matrix ("LMM") during staff | Finalization and distribution of LMM by March 31, 2012 |

| | | | |
|--|---------------|--|---|
| | | meetings for first quarter of the year <ul style="list-style-type: none"> • Implement LMM components into all staff performance evaluations in 2012 • At least one time management & leadership development training to reinforce concepts | Training presented by September 31, 2012 Implementation into performance reviews as they occur |
| 3. Review of options to stabilize expenditures needed to fund investigative services and hourly attorney fee cases | B, C, D, F, G | <ul style="list-style-type: none"> • Review feasibility of different strategies including a possible staff investigator program, and expansion of the staff attorney program, to stabilize the budgeting needs for this office, especially for serious cases requiring hourly compensation • Prepare cost-benefit analysis of these strategies and present to Boards in time for action, if desired, before 2013/2014 budget cycle | June 30, 2012 |
| 4. In-house training | C, F, G | <ul style="list-style-type: none"> • At least 9 hours of Continuing Legal Education ("CLE") training provided to contractors and staff attorneys • At least one CLE offered per quarter • Involve staff and staff attorneys planning and implementation of CLEs | By December 31, 2011 |
| 5. Mental health case | A, E, F, G | <ul style="list-style-type: none"> • Better tracking and | Statistical |

| | | | |
|--|------------|--|---|
| and resource coordination and tracking | | <p>coordination of mental health related cases in both Benton & Franklin Counties</p> <ul style="list-style-type: none"> • Development of statistical tracking system in coordination with jail (ideally both jails) • In-depth training opportunities for staff attorneys and contractors on how to deal with mentally incompetent defendants • Coordination with jails, prosecutors and community providers for a team approach to resolving these high-recidivism and difficult to address cases | <p>tracking by and work-group by April 30, 2012</p> <p>Coordination system in place by May 30, 2012</p> |
| 6. Veteran's case and resource coordination and tracking | B, D, E, F | <ul style="list-style-type: none"> • Compile list of resources for veterans who are facing criminal charges in Benton/Franklin Counties • Develop partnerships with resource providers • Develop a system of strong referrals so as to ensure seamless transfer and reduced recidivism and usage of locally funded resources | <p>Partnerships developed by April 30, 2012</p> <p>Referral and resource coordination system developed and working by June 30, 2012</p> <p>Reporting of MH stats in monthly and quarterly reports by May 2012 report</p> |
| 7. Review of contract terms for all contracts in light of <i>Dolan v. King County</i> and upcoming | C, D, F | <ul style="list-style-type: none"> • In depth review of <i>Dolan v. King County</i> case (where court ruled that public | <p>Report to Commissioners by July 31, 2012</p> |

| | | | |
|--|---------|--|---|
| "hard contract caps" | | defenders in King County are entitled to PERS benefits <ul style="list-style-type: none"> • Review of all current contracts • Evaluate each component of current contracts for risk under ruling in <i>Dolan v. King County</i> | |
| 8. Case cap accountability to stay within WSBA recommended standards | C, F, G | <ul style="list-style-type: none"> • Mandate contractor personal responsibility for staying within WSBA case caps • Maintain accurate and up-to-date caseload data for all courts (especially Benton County District Court) • Eliminate payment for any appointments above 400 cases per year | Contractors advised of new policy now and in Fall, 2012 On-going accuracy and up-to-date caseload data |

STRATEGIC GOALS – DETAILS

Goal 1

Develop and implement a better communication strategy for communicating with clients, criminal justice stakeholders/partners and the community so as to reduce the volume and complexity of incoming requests and questions.

Description:

OPD will be focusing on a strategic restructuring of its outbound communication strategies on multiple channels including its website, published materials, written reference materials, and even outgoing messages on voicemail lines. The purpose of the strategic restructuring will be to simultaneously improve service levels to the community and to clients, and to reduce staff time spent on routine, repetitive inquiries and questions.

This restructuring will take place in three stages:

1. Learning – For the next few months, efforts will be made to learn about what information would be useful to the public and clients, as well as which requests or

questions are most frequently received and/or consume the most staff attention and time. The timing of this first stage will be such that the first year law student intern who should be joining this office for the summer can assist with research. During this time, relevant and useful metrics will be developed that will later be used to evaluate the effectiveness of this program.

2. Implementation – Again, with the assistance of the first year law student intern, the restructuring will be implemented across all communication channels including the website presence, written materials, publications, and outgoing messages.
3. Measurement – Over the few months after implementation, using metrics developed in the first stage, the effectiveness of this restructuring will be gauged.

Deliverables:

By September 1, 2012 – implementation of restructuring

By December 31, 2012 – 3 month analysis of metrics

Goal 2

Staff Leadership Development

Description:

Because of the sometimes routine and repetitive nature of the work done by staff at OPD, as well as the stresses associated with client control and contact, and high volume trial work, burnout and/or boredom are very real talent-retention risks. In order to address these potential problems, issues associated with vicarious trauma and burnout avoidance are already regularly discussed both during ad hoc discussions and more formally at staff meetings. To further address this problem while also simultaneously increasing the overall performance of the OPD team, leadership development and success coaching will become a very integral part of the staff development efforts in this office.

This goal will focus on three parts:

1. Training – Mostly incorporated with staff meetings, leadership training and collaborative workshops will be held based mostly on the Success Mindset Matrix (attached as Exhibit A).
2. Professional Growth Plans – During 2012, professional growth plans will be developed for all staff. The idea behind the growth plans is that everyone working at OPD should have defined goals they should be working toward and professional growth aspirations that the office will support.
3. Leadership and Professional Growth Plans Incorporated into Performance Evaluations – From this point forward, performance evaluations for all staff will incorporate professional growth plan goal setting, as well as aspects of leadership development.

Deliverables

Starting with March, 2012 staffing meeting – start to incorporate leadership

development and Success Mindset Matrix elements into staff meetings.

By April 30, 2012 – All existing staff will have individualized professional growth plans

All performance evaluations conducted in 2012 and onward, will incorporate individualized professional growth plan goals as well as leadership development.

Goal 3

Review available options for stabilizing investigative services and hourly attorney fee expenditures

Description

Historically, and presently, the two categories of expenditures that are not only high, but highly unpredictable, are expenditures for investigative services and for hourly attorney fee cases. Previously implemented strategic plans have already substantially reduced the expenditures in these areas¹. However, these categories of expenditures continue to be unpredictable and highly destabilizing for budget preparation, management, and accountability.

In 2012, OPD will review alternative methods of providing the legally required investigative and public defense services for hourly cases. This review will likely include conferring with other counties and learning about how they approach these needs. If any of these methods have merit, then a cost-benefit and implementation report will be provided to the Board for consideration.

Deliverables

By July 31, 2012 – A report detailing alternative methods of providing investigative and hourly defense services (for homicide and persistent offender cases) will be presented and will include, if appropriate/applicable, cost-benefit and implementation analysis for any methods that may be feasible for use.

Goal 4

Continue Office's In-House Training Program

Description

As reported in previous Strategic Plans and Annual Reports, this office's in-house training program has been a very successful way of continuously improving the quality of staff and contract attorneys, facilitating attorney compliance with statutory and contractual Continuing Legal Education ("CLE") credits, and reducing county liability. In 2012, this program will continue to be offered with an emphasis on mental health, immigration, and trial advocacy issues.

¹ These include the contract investigator system (implemented in 2009), investigator funding limits by case categories (implemented in 2011), and the new homicide/persistent offender single attorney contract rotation (implemented in 2011).

Deliverables

By December 31, 2012 – provide at least 10 hours of local, free CLEs to staff and contract attorneys.

Goal 5**Case and resource coordination and tracking for Mental Health Related Cases***Description*

Recent state cuts in human services have greatly impacted the availability of local mental health treatment resources for the uninsured and underinsured members of our community. This problem has been most visible by headline grabbing incidents including the early 2012 killing (charged as murder) in West Richland by a recently released Eastern State Hospital patient and a March, 2012 killing (also charged as murder) in Pasco at a community mental health housing unit. At the same time, available resources, including Eastern State hospital, the only facility available to provide initial competency evaluations² of defendants charged with crimes are becoming stretched to the point where the criminal justice system is grinding to a halt. As a result, defendants are waiting for months on end for competency evaluations while receiving little to no treatment in local jail. This is not only dangerous for corrections staff and other inmates, but can often pose a danger to the defendants themselves. Crisis Response staff is being requested, on an ever increasing frequency, to evaluate mental health affected defendants directly in the jail for civil commitment, even before they are able to be evaluated by Eastern State Hospital.

With no additional funding or restoration of disabled programs,³ it is becoming clear that the only thing that can be done now is to identify and better coordinate currently available resources so that there is no duplication of efforts and so that we can make such resources stretch as far as possible.

The purpose of this Goal is to develop a framework by which: a) mental health cases will be coordinated and tracked; b) statistics will be kept for the number of mental health related cases and the impact they have on the various criminal justice stakeholder agencies; c) referrals to available resources will be facilitated; and d) appropriate action will be taken on cases that are not receiving the proper attention from outside agencies (with a resultant increased local impact)⁴.

2 Competency evaluations are required whenever there is doubt as to a defendant's ability to mentally comprehend and understand the criminal proceedings and/or assist his/her attorney in defending their case.

3 For example, according to Benton/Franklin Human Services, funding for uninsured or underinsured persons who need ongoing mental health treatment medication, has been virtually eliminated except for when they are under the care of the Crisis Response system. As a result, there are an increasing number of

4 For example, there is case law on what is an appropriate amount of time a defendant may wait in jail pending a mental health competency evaluation. When this amount of time is exceeded, the rights of the defendant start being impinged upon, sometimes they become a danger to corrections staff and other inmates, and local resources start becoming overburdened. When these cases are coordinated, then steps can be taken to address these types of delays by way of court orders, show cause motions, cooperation and requests by prosecutors or the jail, so that local burdens are alleviated.

Deliverables:

Develop and implement system for tracking all mental health related cases system-wide by April 30, 2012

Identify any available resources for out-patient, non-stabilization related treatment resources and establish referral process/partnerships with such resources by June 30, 2012

Form work-group for regularly reviewing mental health cases both on a micro- and macro- level by May 30, 2012

Include mental health statistics in monthly reporting (starting May, 2012) and in quarterly reports (starting June, 2012).

Goal 6

Case and resource coordination and tracking for veteran related cases

Description

According to statistics gathered by the Veterans' Administration, nationwide, at least⁵ 9.6% of inmates in local jails and prisons are veterans. It is assumed (though not studied) that our local jails have similar statistics. Recent news events have brought to light many of the socioeconomic, psychiatric, and financial tolls that deployment has had on veterans. This has resulted in crimes including post-traumatic stress disorder driven drug abuse or even violence, and subsistence driven thefts or fraud.

Fortunately, the Veteran's Administration is not only very well equipped to help veterans (with services including housing, medical service, psychiatric facilities, counseling and employment training) but their financial resources have been virtually untouched by budget cuts. Furthermore, they have a facility that is conveniently located in Walla Walla, allowing them to provide very direct care to veterans in the Tri-Cities.

The services that are available through the Veteran's Administration are highly valuable to the defense of indigent clients. Not only do their services present tools for facilitating diversionary resolutions of cases in negotiations with prosecutors, but they also greatly facilitate the successful re-integration of veteran defendants into the community (with lowered recidivism) by addressing the root causes of their criminal behavior whether it be lack of job skills, substance abuse, mental health, or even just plain poverty. Best of all, these resources can be provided at absolutely no cost to the County or other local government entities.

Deliverables

Establish working relationship with Justice Outreach Social Worker for VA (already

⁵ There is some concern about under-reporting because of frequent confusion about the definition of "veteran."

done)

By April 30, 2012, have in-house CLE with Justice Outreach Social Worker providing training for public defenders on services available, how to refer, and how to screen for veterans.

By May 31, 2012 establish protocol for screening for veteran benefits eligibility. Mandate use for Staff Attorneys and establish flagging system in caseload management system. Recommend use for contract attorneys as tool for better representation.

Goal 7

Review of all contract provisions in light of decision in *Dolan v. King County* and requirements for certification by public defenders starting in January, 2013.

Description

In August, 2011, the Washington Supreme Court confirmed the Court of Appeals decision in the landmark case of *Dolan v. King County*. In this case, King County public defenders, who were ostensibly contractors⁶, filed suit against King County claiming that the County exercised so much control over them that they were *de facto* employees and that they therefore should be entitled to coverage under the Washington State Public Employees Retirement System ("PERS"). The confirmed decision was that in fact the plaintiffs (ie the King County contract public defenders) are entitled to PERS coverage. Unfortunately, while the Court of Appeals and Supreme Court in this case enumerated an entire laundry list of factors that made them decide the way they did⁷, they did not state which of these factors are important to consider, and they also did not state how far "over the line" King County's practices were. As a result, the remaining counties in the State that have a contract public defense system (including Benton County, of course) are left wondering about the repercussions of this decision. Interestingly enough, a few of the Benton County Superior Court public defenders have informed this office that they are reviewing the case to see if it appears if their situation merits coverage under PERS also.

While an initial review of our contracting practices do not seem to reveal a cause for too much concern, it appears to be prudent to be more circumspect under the circumstances and in light of the potentially expensive risks. As such, I will be taking the time to scrutinize, in detail, all of the components of our current professional services agreements, possibly with the assistance of outside counsel, and take steps to make any necessary changes with the agreements (as well as compliance practices) so as to minimize the chances of being affected negatively by the *Dolan v. King County* decision⁸.

6 In King County, the County contracts with four non-profit law firms to provide public defense services. The class-action plaintiffs in this case are all employees of these non-profit law firms.

7 This included the budgeting process for these non-profit law firms, the fact that the employees of these law firms were prohibited from taking any private cases, numerical requirements for staffing imposed by the County, and the requirement for seeking County approval before purchase of office equipment above a certain dollar amount threshold, among others.

8 The actual fallout from the appellate decision has not been determined yet, since the matter has been

Deliverables

By July 31, 2012, report on all current public defense contracts detailing which, if any provisions create possible or probable risk under the Dolan decision and what steps should be taken to revise those provisions.

remanded back to Pierce County Superior Court (the lawsuit was filed there to avoid a conflict of interest in King County) to determine the actual mechanics of who exactly is eligible, how they can purchase service years, their exact benefits, and a host of other important issues.

Franklin County
Board of Commissioners
Agenda Summary Report

DATE SUBMITTED: 6-5-2012**PRESENTED BY: FC Noxious Weed Control Board**

ITEM: (Select One) ☐ Consent Agenda
☒ To Be Brought Before the Board. Suggested Date: 6-13-2012
Time needed: 15 minutes

SUBJECT / ISSUE: roadside herbicide application**FISCAL IMPACT: minimal, PW has budget line item for this application****ACTION(S) REQUESTED: decision by the Board of Commissioners to move the roadside spray program from Public Works Dept. to the Noxious Weed Control Board**

BACKGROUND: currently the roadside spray program is done by an outside contractor, and is under the control of the PW Dept. By moving this program to the Weed Board it would become part of County wide weed control program, and be administered by a group that deals with weed control, rather than roads and road safety issues.

COORDINATION: Noxious Weed Control Board

RECOMMENDATION: the Board of Commissioners decides if the County wants to be involved in an in-house roadside spray program.

NOTE: there are a number of reasons for and against County involvement in this program I have included some in the attached letter. Several questions have yet to be resolved, and will need further research to determine the feasibility of making a change. Service to the County residents is the driving factor behind the suggestion to make this change. Weed control is what the Weed Board does and this is primarily a weed issue.

ATTACHMENTS:

1. Letter of request.

I certify the above information is accurate and complete.

 Vic Reeve Coordinator, Franklin County Noxious Weed Control Board



Mailing: 1016 N 4th Physical: 502 Boeing, Pasco, WA 99301
Phone: 509-545-3847 FAX: 509-545-2139
Email: fcwb@co.franklin.wa.us

Board of County Commissioners

June 5, 2012

Dear Franklin County Commissioners,

The Franklin County Noxious Weed Control Board is interested in investigating the possibility of doing the roadside Right of Way Herbicide Application for Franklin County. As I see the protocol, the Franklin County Commissioners would have the final decision in taking this from a service contract of the lowest bidder to an in house operation.

This process will consume several hours of research and leg work, which I am willing to do if the program has the possibility of moving forward, however if it is not the desire of the Commissioners to become involved in this program my efforts can be used in other areas.

Managing the roadside right of way is not an easy process, and there is significant liability involved with any chemical application. The advantage of an in house program is local control. Weather and timing are critical to weed control, knowledge of the local conditions and cropping history becomes a valuable tool when choosing the proper chemicals for the most effective application.

The objective for change would be determined by the desired end result. It will be essential that everyone has the same goal in mind. The Weed Board would prefer to have a weed free road edge and would work towards that end. Many noxious weeds begin their invasion by being transported from one area to another. Maintaining a weed free zone at the road edge reduces the possibility of establishment and spread.

The Weed Board staff currently surveys road right of ways as a point of initial contact for noxious weeds. When weeds are found, Public Works is notified but have few resources to address each individual location. Under this new arrangement the Weed Board would have the equipment, manpower and budget to use the control measures necessary.

I would like to begin conversation by listing as many positive and negative aspects of the project as we can forecast, realizing that the unexpected is always a possibility.

Benefits:

Local control and availability – The development of a program and establishing a protocol for the desired weed control would be in conjunction with the Weed Boards county wide plan. One advantage would be having locally based equipment and manpower to support timely applications for optimum results. Cooperation with public works and road maintenance supervisors will establish best long term weed management of the right of ways and also repair and building projects.

Flexibility – this would apply to chemical choices and number of applications, having two distinctly different cropping areas, irrigated and dryland, with different desires and requirements, flexibility is necessary.

Cost control – I don't see that a large cost reduction is a viable argument; however we would be looking at reduction in profit margin. The Weed Board costs would be based on acquisition, replacement and labor cost minus a profit margin.

Revenue and labor – Increased cash flow would allow the Weed Board to utilize additional manpower during the spray season in addition to upgrades of equipment and technology.

Familiarity with landowners – Additional visibility and interaction with local landowners could improve the response to the Weed Control Board when requesting cooperation with control measures on their own land.

Complications:

Liability – As a Special Purpose District it would be advantageous for the Weed Board to establish a liability policy for all application work. Additional insurance and bonding would be necessary to cover any unforeseen complications.

Revenue – The demands of the spray program in equipment, manpower and liability would increase the need for revenue which would come from the current Public Works spray budget that would now become part of the Weed Boards budget to cover additional costs.

Operator Training – A qualified operator would require advanced training prior to the application season, and equipment would need to be purchased and thoroughly tested before any application would be made.

Additional equipment – Additional capital funding would be needed for the initial purchase of equipment and technology with the strategy of reimbursement following a three year contract.

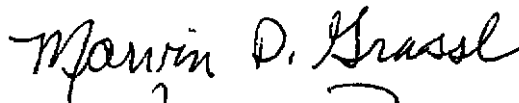
Initial investment is estimated at \$60,000 to \$70,000 for one spray truck with GPS tracking and the additional equipment needed.

Recent information has come from Pasco WAS DOT about the retirement of their spray truck which presents an opportunity to purchase a used vehicle before it goes to auction that has all of the equipment needed for about a third of the cost. This will be available to us for a short period of time before going to auction, however WAS DOT has another one that will be available later this fall.

There are numerous questions that will need to be addressed and each will have several options and conditions involved in the answers. To initiate the next step in pursuing this project the Weed Board would appreciate your response to the question of changing the Roadside Spray program from a private application to an in house application under the control of the Franklin County Noxious Weed Control Board.

This letter is for your consideration as the Board of County Commissioner for Franklin County. It has been discussed at the regular monthly meeting May 21, 2012 of the Franklin County Noxious Weed Control Board.

Marvin Grassl, Chairman



Victor Reeve, Coordinator





FRANKLIN COUNTY AUDITOR

Matt Beaton, Auditor

6/13/2012

Franklin County Commissioners:

Vouchers audited and certified by the auditing officer by RCW 42.24.080, expense reimbursement claims.

Action: As of this date, 6/13/2012

Move that the following warrants be approved for payment:

certified by RCW 42.24.090, have been recorded on a listing, which has been sent to the board members.

| FUND Expenditures | WARRANTS | | AMOUNT ISSUED |
|------------------------------|----------|-------|---------------|
| Current Expense | 67328 | 67370 | \$44,852.44 |
| Current Expense | 67371 | 67413 | \$37,466.79 |
| Election Equipment Revolving | 67414 | 67416 | \$380.74 |
| Enhanced 911 | 67417 | 67419 | \$3,680.56 |
| Ending Homelessness Fund | 67420 | - | \$2,108.00 |
| TRAC Operations Fund | 67421 | 67446 | \$15,791.43 |
| Franklin County RV Facility | 67447 | 67449 | \$35,064.28 |
| Motor Vehicle/Public Works | 67450 | - | \$16,051.20 |

In the amount of

\$155,395.44

The motion was seconded by

And passed by a vote of 3 to 0

RA Stancos

The attached vouchers have been approved by Auditor or Deputy

Mike Jordan
Vouchers Audited By



FRANKLIN COUNTY AUDITOR

Matt Beaton, Auditor

June 13, 2012

Franklin County Commissioners:

Vouchers audited and certified by the auditing officer by RCW 42.24.080, expense reimbursement claims certified by RCW 42.24.090, have been recorded on a listing, which has been sent to the board members.

Action: As of this date, June 13, 2012
move that the following warrants be approved for payment.

A handwritten signature in dark ink, appearing to be "S. Kod" or similar.

| <u>FUND</u> | <u>WARRANT</u> | <u>AMOUNT</u> |
|-------------------------------------|----------------|---------------------|
| Salary Clearing Payroll: | | |
| Payroll | 56273-56359 | 170,622.14 |
| Direct Deposit | | 344,207.69 |
| | | 514,829.83 |
| Benefits | 56360-56364 | 79,966.33 |
| | Total | \$594,796.16 |
| Emergency Mgmt Payroll: | | |
| Payroll | 67298-67304 | \$2,518.11 |
| Direct Deposit | | 7,101.89 |
| | | \$9,620.00 |
| Benefits | 67305-67308 | 1,434.66 |
| | Total | \$11,054.66 |
| Irrigation Payroll: | | |
| Payroll | 67309-67323 | \$6,756.51 |
| Direct Deposit | | 3,875.80 |
| | | \$10,632.31 |
| Benefits | 67324-67327 | 1,758.83 |
| | Total | \$12,391.14 |
| Grand Total All Payrolls | | \$618,241.96 |

In the total amount of **\$618,241.96**

(\$594,796.16+\$11,054.66+\$12,391.14)

The motion was seconded by

A handwritten signature in dark ink, appearing to be "S. Kod" or similar.

and passed by a vote of 3 to 0

A large, stylized handwritten signature in dark ink, appearing to be "Matt Beaton".

The attached payroll has been approved by Auditor or Deputy

A large, stylized handwritten signature in dark ink, appearing to be "Carmelo Cruz".

Payroll Prepared By

FRANKLIN COUNTY COMMISSIONERS SPECIAL BOARD MEETING

Wednesday, June 13, 2012

NAME (Please Print)

CHARLES & MARGARET STUBBS
 Bonnie & Ron, Esquire
 Chuck & Julie Harrison
 Robert Smith
 Judy Smith
 Gary Johnson
 Carol & Don Harris
 Macy Davis
 Chris Alkham
 ARNOLD J. LEWICKI
 Ronnie Rumsey
 LESTER STUBBS
 FRANK & METCOX KENDALL
 Nicholas Scott - Kilgore
 Brian Breazeale
 Mary Schaffer
 Fred Schaffer
 Corina Crossland
 - John Tomlinson
 Michael Lata
 Ed Berman Rd 80
 - Stu Nelson
 Cynthia McFuton
 Toby McKay

FRANKLIN COUNTY COMMISSIONERS SPECIAL BOARD MEETING

Wednesday, June 13, 2012

NAME (Please Print)

THOMAS H. GREEN

PAM FOLLANSBEE

Fred Bowen

John & Sandy Pietrusiewicz

Robert L. Chabrier Sr & Alicia Chabrier

Don & Linda Story

Bob & Karen Martin

Dorothy Greenough

Cheri Jones

Jesse Howell

Leonard Moore

Judy Soley

Gina Achatz

Merri Miller

Phil and Marilyn Miller

JEREMY Blasdel

Tom Hales

Candy Hales

Doug Gould

Steve Cuiery

TERRI CARPENTER

ROSS CARPENTER

Roger Miller

Jim Hensley

Cassandra Hare

Richard Hare

Juan Munoz JR

FRANKLIN COUNTY COMMISSIONERS SPECIAL BOARD MEETING

Wednesday, June 13, 2012

NAME (Please Print)

XVonne Stredwick)

DAN BLASDEI

SANDY GOMEZ

CARLY GOMEZ

BRAY DEBEVER

PATRICK E. BARNETT

HENRY JAMES

BASON NELSON

BARBARA MCGUINNESS

MIKE FLEMING

MICHAEL VITACI

MIKE THIEN

MAH ALFA

SUSAN FAYSSSE

BONNIE LYNN DAVIS

BRIAN J. HARTMAN

DALENE ZABEL KLEINZELD

RICHARD WEISS

FRANKLIN COUNTY COMMISSIONERS SPECIAL BOARD MEETING

Wednesday, June 13, 2012

NAME (Please Print)

Jay Frichetto
Shirley Rody
John Rody
Rick WHITE
Frank Votia
Mary Probasco
Lenny Rony
KEN FERGEN
Richard St. Hilaire
Matt Macduff
Melissa Macduff
Joshi Howell
Danny Dunnagan
LISA LOVELEY
Daniel LOVELLY
Anne Edwards
Maya Beltran
JAMES KILGORE
Helen Harner
Robert W. Harner
THOMAS OLIVER

FRANKLIN COUNTY COMMISSIONERS SPECIAL BOARD MEETING

Wednesday, June 13, 2012

NAME (Please Print)

Ron Oak

Jim Follanabee

self

JEFF HENDLER

Scott Howell

Denise Howell

Jessa Rodgers

David Brothe

Leo & Faust

Bob Eng

William H Venema 8577W Court.

Russ Gutmann

ARHIE (LOU) 6204 MELVILLE RD

Cathy Methen

MICHAEL HOFF

Cathy Bruce

Darrin Bruce

Michelle Mastor

Susan Knox

James Knox

Bryan Schuler

Theresa Moore

Karen Kerbin

~~Frank & Mary Ann~~~~Frank & Mary Ann~~

FRANK & MARY ANN BITTRICK

Frank & Mary Ann

Judy Westcott

FRANKLIN COUNTY COMMISSIONERS SPECIAL BOARD MEETING

Wednesday, June 13, 2012

NAME (Please Print)

Charlotte Heger
Robert E. Lewis
Nicole Munoz
Monica Lamb
Don H. Lamb
Dale Little
Jane Ridgely
Tom Lamb
Rich Lahtinen
Suzanne Band
Joan Larsen
Lorrie Neuberger
Tom LARSEN
Roger Camacho
Mark & Rose Mantelty
Pam Kelly
Todd Blackman
HANK OLIVER
David Farnsworth
Marybryn & Lora Heiness
Loren Heiness
Gary Zeiler
Linda M. Christianson



OFFICE OF THE MAYOR (509) 545-3404 / Fax (509) 545-3403

P. O. Box 293, 525 N. 3rd Avenue, Pasco, WA 99301

June 13, 2012

Board of County Commissioners
Franklin County

RE: Incorporation

Dear Commissioners:

There has been much public discussion over the past year about potential annexation of the so called "donut hole." To this is now added the concept of incorporating a new city, completely surrounded by the City of Pasco. As is usual with such issues, misinformation is being shared in the community. This letter is intended to provide the background and some of the facts about the City of Pasco position regarding both of these issues. It is requested that it be read into the record at the June 13, 2012 meeting on potential incorporation to be held at TRAC.

Background:

Most all of the Pasco area west of Road 36 was outside the city until 1982, when the city (with the full support of the Franklin County Commission) annexed "the plateau" (the area above the FCID irrigation canal and west of Road 52). Both the city and county wanted to plan for extension of urban services to accommodate expected development of the new transportation corridor created by the construction of the I-182 freeway.

In the early 1990s, the state adopted the Growth Management Act (GMA), requiring counties to designate "Urban Growth Areas" (UGA) for each city. Because western Pasco was already surrounded by the city, the Board of County Commissioners designated all of it to be within the "Pasco UGA." About the same time, the city was planning extension of water and sewer services to the plateau and, under GMA, needed to plan for services to all of the UGA (including the donut hole). A board of five Franklin County citizens conducted hearings on the city's plans and, after much public discussion (which included the fact that the city would require annexation commitments from those connecting to the city's utility systems), the Franklin County board approved both the UGA and the city's utility plans in 1992.

Since that time, the city has made substantial investments in both its water and sewer systems so it can accommodate future connections in the donut hole area. Its new fire station was located on Road 68 near Argent Road so it would be well-placed to serve the

Board of County Commission
Franklin County
June 13, 2012
Page 2

donut hole in the future. In addition, a committee largely composed of non-city residents made recommendations for changes in the city's rules so that annexation of the donut hole over time would not present significant conflicts with the general lifestyle enjoyed by residents of that area. The Pasco City Council enacted those changes in the mid-1990s and the city has accommodated annexation of about one-third of the original area (representing more than 1,000 homes and 2,000+ people) since that time.

A law approved by the state legislature in 2009 allows for a city, county and fire district to enter into an agreement to spell out an annexation plan for an Urban Growth Area and permits annexation without requiring commitments from individual property owners. City and Franklin County Fire District #3 officials met in early 2011 and determined there was probability of an appropriate agreement with the District.

Upon invitation by the city, the Franklin County Commission agreed to enter into discussions toward an annexation agreement in September 2011. Suggested provisions of an agreement were provided by the city to Franklin County in October but no revisions or alternative provisions were offered by Franklin County. Through meetings in January and February, Franklin County made it clear it would not entertain discussion of an agreement until a "matrix" was completed to compare the regulatory and cost considerations for affected residents. Once completed (in early May), the matrix clearly reflects:

- No meaningful difference in regulatory matters (except dog control)
- Very similar annualized household costs, and
- Improved service levels (police, fire, garbage, etc.) would result from annexation.

In May, a group of "donut hole" residents advised the Franklin County Commission of its desire to incorporate all of the donut hole (as a new and separate city) rather than be annexed by Pasco. The law explicitly requires an incorporation proposal to have at least 3,000 inhabitants in order to be eligible for a public vote. The same law also explicitly recognizes the potential interest of an adjacent city, by allowing the adjacent city to initiate annexation of any portion of the proposed "new city" area; if such an annexation reduces the population of the new city area below 3,000 inhabitants, the incorporation proposal cannot go forward. In other words, state law forbids creation of a new city of less than 3,000 people adjacent an existing city.

Given the filing of the incorporation effort, coupled with lack of substantive progress in negotiating an interlocal agreement with Franklin County, the City of Pasco has turned its focus to the incorporation effort. Though the concept and costs of a new city clearly have not been thoroughly evaluated by the proponents, the prospect of voter approval based on emotional reaction to a myriad of "annexation myths" is not in the greater public interest. Obvious problems created for Pasco by allowing a city to be formed within its city limits include:

- Perpetuation of gross inefficiencies in Pasco's daily operations (police, utilities, parks, streets and animal control) associated with the requirement to drive through another city to serve portions of Pasco west and north of the donut hole;

Board of County Commission
Franklin County
June 13, 2012
Page 3

- Potential dead-ending of the city's utility systems (water and sewer) and/or exorbitant franchise fees/onerous conditions required by the new city;
- Relocation of city Fire Station #3 (Road 68 and Argent) so that it is not on the edge of Pasco;
- Continued impact on the city's traffic system without contribution by development in the new city via traffic impact fees;
- Use of Pasco facilities created and maintained at Pasco taxpayer expense without financial participation by residents of the separate city (senior citizens' center, Chiawana Park, etc.).

In short, creation of a new city in the donut hole would result in increasingly higher costs (taxes and fees) to Pasco residents and unavoidable indirect subsidies by Pasco residents and taxpayers. The donut hole, as a separate city, would experience an inadequate tax base (it is virtually all residential) to financially support the most basic of city services. Most new cities struggle financially, even with a commercial tax base; the donut hole would face even more challenging financial hurdles. It is also worth noting that of the 16 cities that have incorporated in the past 30 years, not a single one of these is surrounded by another city.

The City Council is scheduled to consider one or more annexation areas at its meeting of June 18. Given an estimated population of approximately 4,000 within the donut hole, an annexation of somewhat more than 1,000 residents will terminate the incorporation process – thus ending the prospects for adversely impacting Pasco taxpayers; but also putting to rest the idea that having a “city within a city” makes sense for any group of taxpayers.

The City Council may approve an annexation process which will effectively terminate the incorporation effort but still reserve a significant portion of the donut hole to be considered under a renewed process of negotiation for an interlocal annexation agreement as noted earlier. That option, after all, offers the best opportunity for a rational action plan – one which accommodates valid objectives of donut hole residents while respecting the plans and investments already committed by Pasco and Franklin County officials over the past 20 years.

Sincerely,



Matt Watkins
Mayor

cc: City Council
Gary Crutchfield, City Manager