WORK SESSION

BOARD OF CLALLAM COUNTY COMMISSIONERS

223 East 4th Street, Room 160
Port Angeles, Washington
February 8, 2021

****ATTENTION****

In response to the current pandemic, to promote social distancing, and in compliance with Governor's Proclamation which prohibits in-person attendance at meetings, the Board of Commissioners strongly encourages the public to take advantage of remote options for attending open public meetings.

This meeting can be viewed on a live stream at this link: http://www.clallam.net/features/meetings.html

If you would like to participate in the meeting by phone call 408-419-1715 and use Meeting ID: 875 561 784.

If you would like to participate via video conference, visit www.bluejeans.com and join the Work Session with Meeting ID: 875 561 784.

No in-person attendance will be allowed until Governor's Proclamation is lifted.

Public comment and questions can be directed to the Clerk of the Board at 360-417-2256 or agores@co.clallam.wa.us.

Administration – 9 a.m.

1 Calendar/Correspondence

Public Works

2 Certification of the 2021 Road Levy (6a)*
3 Notice of request for proposals to be submitted Monday, March 22, 2021 at 4:30 p.m. regarding Clallam Bay and Sekiu Sewerage District Project
4 Notice of hearing to be held Tuesday, March 9, 2021 at 10:30 a.m. for a Resolution authorizing the sale of surplus property

Community Development

5 Approval of indemnification of lost original note and/or deed of trust, request for reconveyance and substitution of trustee for Phyllis V. Slick

Board of Commissioners

6 Resolution reappointing Annie O'Rourke, Mattias Jarvegren and Carla Sebastian to the Permit Advisory Board

Budget

7 Discussion on proposed budget reductions to be considered on February 23 (4a)*
8 Discussion on proposed budget revisions to be considered on February 23 (4b)*
9 Discussion of proposed supplemental appropriations to be considered on February 23 (4c)*
10 Discussion of proposed budget emergencies to be considered on February 23 (4d)*
11 Agreement with Clallam County Economic Development Corporation

*** Items also on Tuesday's agenda**

Continued Work Session – 1 p.m.

12 HB 1406 discussion

General Discussion/Items for Future Agendas

- Commissioners Conversation Meeting – Topic TBD (March 1)
- Continued Work Session – USDA Forest Service discussion (March 8 at 1 p.m.)
- Charter Review Commission recommendation (March 15)
- Department of Natural Resources quarterly report (March 15 at 1 p.m.)
- Noise Ordinance (TBD)

EXECUTIVE SESSION

The Board may recess into Executive Session to consider employment or dismissal of personnel, to review the performance of a public employee, to consult with legal counsel, to consider the position to be taken in collective bargaining, to consider acquisition or sale of real estate, or other matters per RCW 42.30.110.

- ➢ Other items may be added at the discretion of the Board and additional Work Sessions may be scheduled if more time is needed to allow for adequate discussion.
- ➢ Written testimony presented by members of the public during the Board meeting is considered a public document and must be submitted to the Clerk of the Board. Copies of public documents from Board meetings are available by contacting the Public Records Department.

*** Items also on Tuesday's agenda**

12
cont. w/s
@ 1pm

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: BOCC

CONTINUED WORK SESSION
☒ **Meeting Date: 2-8-2021 AT 1 P.M.**

Item summary:

☐ Call for Hearing ☐ Contract/Agreement/MOU - Contract #

☐ Resolution ☐ Proclamation ☐ Budget Item

☐ Draft Ordinance ☐ Final Ordinance ☒ Other – Discussion and next steps

Documents exempt from public disclosure attached: ☐

Executive summary:
HB1406 Update and Planning

Agenda Item Summary: HB1406 provides counties and cities with a revenue stream that can be used to support the creation of affordable housing in communities. The Commissioners have asked the Prosecuting Attorney's office to provide some initial legal analysis regarding how these funds may be used and the purpose of today's discussion will be to review that analysis and plan next steps, including whether or how to coordinate with our city partners.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
None.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Discussion and next steps.

County Official signature & print name: Loni Gores Loni Gores, Clerk

Name of Employee/Stakeholder attending meeting: Board of Commissioners, Prosecuting Attorneys Office

Relevant Departments: Board of Commissioners, Prosecuting Attorneys Office

Date submitted: January 4, 2021

Gores, Alanna

From: Johnson, Randy
Sent: Wednesday, January 27, 2021 10:53 AM
To: Gores, Alanna
Subject: FW: Use of SHB 1406 Funds for Infrastructure

This also needs to be part of our 1406 discussion.
Randy

From: Alvarez, David
Sent: Wednesday, January 27, 2021 8:29 AM
To: Johnson, Randy; 'Charisse Deschenes'; Allyson Brekke; Peach, Bill; Ozias, Mark; Stanley, Elizabeth
Cc: smartinez@peninsulapha.org; Colleen Robinson; nwest@cityofpa.us; Barry Berezowsky
Subject: Use of SHB 1406 Funds for Infrastructure

Here is the key phrase from RCW 82.14.540(6)(a)(i);

Acquiring, rehabilitating, or constructing affordable housing

The argument to get to "yes, you can use 1406 to install infrastructure" starts with a liberal construction of the word "constructing."
I suppose you can't construct affordable housing without infrastructure, water and sewer, for example.
AND
I would argue the infrastructure that is built with 1406 money may ONLY serve the affordable housing project. Again the RCW:

may only be used for the following purposes:

So the infrastructure built with SHB 1406, i.e., RCW 82.14.540(6)(b) funds cannot, in my opinion, serve both an affordable housing project and fair market value housing or development.
Don't know what would happen if there is built "1406 infrastructure" by an extension of a sanitary sewer line and then later FMV development builds infrastructure in reliance on the "1406 infrastructure."
Was the 1406 infrastructure used for FMV housing?

In sum, don't disagree that a liberal construction of RCW 82.14.540(6)(a) and (b) allows use of "1406" money for infrastructure for the sole purpose of affordable housing.

David Alvarez Working from home Work cell: 360 477 3125

From: Johnson, Randy
Sent: Tuesday, January 26, 2021 6:32 PM
To: 'Charisse Deschenes'; Allyson Brekke
Cc: smartinez@peninsulapha.org; Colleen Robinson; nwest@cityofpa.us; Barry Berezowsky; Alvarez, David
Subject: RE: Use of SHB 1406 Funds for Infrastructure

To all,
This issue means that we have what appears to be two legal opinions that are different. Not surprising, but I'll send this to our DPA for his review also.
Randy

From: Charisse Deschenes [mailto:cdeschenes@sequimwa.gov]
Sent: Tuesday, January 26, 2021 4:22 PM

To: Allyson Brekke
Cc: Johnson, Randy; smartinez@peninsulapha.org; Colleen Robinson; nwest@cityofpa.us; Barry Berezowsky; Charlie Bush
Subject: FW: Use of SHB 1406 Funds for Infrastructure

*** EXTERNAL EMAIL *** This message was sent from outside our County network.

Thank you for taking lead on this item Allyson.
I'm looping in Barry Berezowsky DCD Director in Sequim.
All the best,

Charisse Deschenes
(She/Her/Hers)

CITY OF
SEQUIM

Assistant City Manager
Direct: 360-681-3432
Mobile: 360-912-1761 (preferred)
www.sequimwa.gov

From: Allyson Brekke <Abrekke@cityofpa.us>
Sent: Tuesday, January 26, 2021 4:06 PM
To: Randy Johnson <rjohnson@co.clallam.wa.us>; smartinez@peninsulapha.org; Charisse Deschenes <cdeschenes@sequimwa.gov>; Colleen Robinson <colleen@habitatclallam.org>
Cc: Nathan West <Nwest@cityofpa.us>
Subject: FW: Use of SHB 1406 Funds for Infrastructure

To all,

I went ahead and requested my legal team to look into the question of whether or not 1406 monies could be used for infrastructure that supports affordable housing, as that seemed it was a lingering question amongst us. In short, they have come up with the answer of "yes." Please see below and attached.

I'm looking forward to the next conversation about a regional effort utilizing the 1406 monies. I have a reoccurring meeting at 8:30 a.m. every Friday so a meeting that begins at 9:30 a.m. or later is better for me.

Kindly,

Allyson Brekke, AICP (She/Her/Hers)
Director of Community and Economic Development
City of Port Angeles

p: 360-477-0195 (cell)
e: abrekke@cityofpa.us

Please note that I'm working from home and I may be delayed in responding to your email. You can still reach me at the number above. Stay well!

From: William Bloor <Wbloor@cityofpa.us>
Sent: Tuesday, January 26, 2021 3:36 PM
To: Allyson Brekke <Abrekke@cityofpa.us>
Cc: Nathan West <Nwest@cityofpa.us>; Jeanie DeFrang <Jdefrang@cityofpa.us>; John Molay <Jmolay@cityofpa.us>; Christopher Cowgill <Ccowgill@cityofpa.us>; Sarina Carrizosa <Scarrizo@cityofpa.us>; William Bloor <Wbloor@cityofpa.us>
Subject: Use of SHB 1406 Funds for Infrastructure

Allyson,

Last week you asked whether taxes collected from SHB 1406 could be used to pay for infrastructure that supports affordable housing.

The short answer is Yes.

That answer comes with some qualifications. First, there is no statute or court decision that expressly says the tax may be used to build infrastructure, but there is no statute or case that forbids it, either. Where there is no express answer given by a statute, the courts will interpret the statute by ascertaining the legislative intend. In this case, Washington has adopted a policy of increasing the supply of affordable housing, and use of the tax to pay for infrastructure is consistent with the legislative intent. Second, there must be a nexus between the infrastructure and an affordable housing project. The City cannot use the tax to pay for infrastructure in a location where it will not benefit affordable housing. Assuming that there will be such a nexus, a reasonable argument can be made for use of the funds for infrastructure related to affordable housing. This interpretation is in harmony with the State's goals and policies.

John and I independently came to the same conclusion. John wrote the attached analysis, which is a more complete explanation of the reasoning that leads to our conclusion.

If you have any questions or would like to discuss this in more detail, please contact me.

Thanks.

Bill