

BOCC Wrap-Up

March 8, 2021

9 a.m.

Present: Commissioner Stamper, Commissioner Pollock, Commissioner Swope, County Manager Erik Martin, Prosecutor Jonathan Meyer, Undersheriff Wes Rethwill, Chief Civil DPA Eric Eisenberg, Chief Kevin Engelbertson, Chief Dusty Breen, Budget Services Administrator, Becky Butler, Sheriff Rob Snaza, Tailor Albright, HR / Risk Director Chris Panush, Stephanie Miller, Casey Mauermann, Katie Conradi, Alison Puckett, Internal Services Chief Steve Wohld, DPA Sara Beigh, Accounting Specialist Sherri Dokken, Mental Health Court Program Coordinator Sophia Limacher

Guests: Peter Lahmann, Edna J. Fund, A.P. Haggerty, Chief Roger Morningstar, The Chronicle, Nic Scott

Recorder: Rieva Lester

Controlled substance ordinance discussion

Prosecuting Attorney Jonathan Meyer discussed the State Supreme Court's Feb. 25 ruling in the state v. Blake case.

He said RCW 69.50.4013 states, "It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter."

He said the courts have repeatedly determined the statute was valid and that, in essence, RCW 69.50.4013 read as, "It is unlawful for any person to **[knowingly]** possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter."

However, he said, the Blake ruling found that "RCW 69.50.4013(1) – the portion of the simple drug possession statute creating this crime – violates the due process clauses of the state and federal constitutions and is void," ultimately voiding the entire controlled substance rules outlined in RCW 69.50.4013.

For Lewis County, Jonathan said, the fallout from the court's decision has been as follows:

- Lewis County had to dismiss approximately 200 cases as of March 8.
- Approximately one-third of the county's Drug Court participants had to be "kicked out" with no support or resources.
- Individuals were removed from stable sober housing with no support or resources.
- Individuals were recalled from inpatient treatment and turned out to the street with no support or resources.

- Individuals were from inpatient mental health treatment and turned out to the street with no support or resources.

Jonathan said an easy fix would be for the state to add “knowingly” to the RCW’s verbiage, but that calls to do so have not garnered the support needed. He noted that Reps. Abbarno and Orcutt and Sen. Braun are doing their part to enact the needed fix.

In the meantime, Jonathan said, the county could look to RCW 69.50.608, which states, “The state of Washington fully occupies and preempts the entire field of setting penalties for violations of the controlled substances act. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to controlled substances that are consistent with this chapter. Such local ordinances shall have the same penalties as provided for by state law. Local laws and ordinances that are inconsistent with the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of the city, town, county, or municipality.” The law would allow the county to (1) prohibit the same conduct as long as the penalties are the same or (2) prohibit different conduct and set the penalty accordingly.

Jonathan said creating a controlled substance ordinance at the county level would allow the courts to get involved, requiring participants to get evaluations and treatment for compliance. He said creating a county ordinance that prohibits “knowingly” possessing a controlled substance could help individuals break the chains of addiction.

Jonathan said he has reached out to Rep. Orcutt and Sen. Braun as well as Judge Buzzard, Coroner Warren McLeod and others, and that everyone he spoke to was in support of the idea.

Sheriff Rob Snaza voiced support of creating an ordinance and encouraged the county reach out to the area’s nine mayors to encourage them to adopt similar rules.

Stephanie Miller said the 17 Drug Court participants who had to be released were engaged with services. However, she said, roughly half had already relapsed within a few days. Stephanie also noted that housing was in jeopardy for several of the Drug Court participants due to the Blake ruling.

The commissioners directed Jonathan and the PA’s Office to move forward with the proposed controlled substance ordinance.

The commissioners weighed the merits of identifying knowingly possessing a controlled substance as a gross misdemeanor versus a felony. Eric Eisenberg noted that if the cities were to adopt similar language, the cities could not identify the crime as a felony.

A majority of the meeting participants left at 9:39 a.m.

Activity reports

The commissioners provided the following activity reports:

Commissioner Stamper

- Met with Forest Service regarding timber sales

- Talked about tourism with NKEA

Commissioner Pollock

- Fairgrounds housing mass vaccination sites as well as dog shows, etc.

Commissioner Swope

- Toured Solid Waste facility.
- Met with IT regarding the county's future needs.
- Met with EDC to review TransAlta / IPAT contracts.
- Met with Kyle Markstrom regarding how to better partner with the port.

Legislative session update: The group discussed bills before the state, including the state income tax, bill 5489 and others.

Minute folders: The commissioners approved minutes for the week of Feb. 22.

TransAlta / IPAT lands

Commissioner Swope said the City of Centralia cannot find record of an agreement that it is supposed to take care of Plummer's Lake, contrary to what a Washington Department of Fish and Wildlife (WDFW) representative said during the March 5 Mayors' Meeting.

COVID-19

Steve Wohld said FEMA has asked for a month-to-month exclusive / non-exclusive agreement for use of the fairgrounds. He said the county would be able to continue using the site for jury selection, vaccine distribution, etc. He said FEMA would provide funding for needed improvements, such as gravel and parking. He said FEMA would make the monthly payments retroactive to January 2021.

The commissioners reviewed their calendars.

Former Commissioner Fund reminded the group about the March 9 public meeting regarding the proposed dam.

Peter Lahmann discussed cleanup efforts.

Meeting ended at 10:04 a.m.