



BOARD OF COMMISSIONERS

1300 NW Wall Street, Bend, Oregon
(541) 388-6570

FOR RECORDING STAMP ONLY

BOCC MEETING MINUTES

9:00 AM

WEDNESDAY June 28, 2023

Barnes Sawyer Rooms
Live Streamed Video

Present were Commissioners Tony DeBone, Patti Adair and Phil Chang. Also present were Nick Lelack, County Administrator; Kim Riley, Assistant County Counsel; and Brenda Fritsvold, BOCC Executive Assistant.

This meeting was audio and video recorded and can be accessed at the Deschutes County Meeting Portal website www.deschutes.org/meetings.

CALL TO ORDER: Chair DeBone called the meeting to order at 9:00 a.m.

PLEDGE OF ALLEGIANCE

CITIZEN INPUT:

- Ron Boozell spoke regarding the Board's upcoming \$14,000 per year pay raise and said citizens will not get anything extra for the additional \$42,000 annual expense. He supported expanding the Board from three to five members, saying this would benefit residents and also allow Commissioners to talk with each other outside of their meetings which cannot now happen.

Commissioner Chang said he will not accept the full salary increase for FY2024 beyond a 4% cost of living allowance.

Commissioner Adair said her refusal to sign up for PERS saves taxpayers \$27,000 each year. She added that she personally lobbied the State legislature for funding

for the courthouse expansion, and the County was awarded \$15 million for that project.

- Dorinne Tye said pollution emanating from operations at the Bend Municipal Airport sickens resident such as herself. She added that training maneuvers are a nuisance and flight paths should be changed.
- Carl Shoemaker stated that the Republican Party is trying to suppress voting across the nation, and those who have the highest net worth (the top 2%) use their money to leverage power.

CONSENT AGENDA: Before the Board was Consideration of the Consent Agenda.

1. Approval of an agreement with the US Forest Service to fund the Oregon Living With Fire program for another five years
2. Approval of Board Order No. 2023-025 cancelling uncollectible personal property taxes in the amount of \$53,621.57
3. Approval of Minutes of the June 16, 2023 BOCC Legislative Update

ADAIR: Move Board approval of the Consent Agenda as presented
CHANG: Second

VOTE: ADAIR: Yes
CHANG: Yes
DEBONE: Chair votes yes. Motion Carried

ACTION ITEMS:

4. Presentation of 25-year service award to Mary Anderson

Steve Gunnels, District Attorney, presented a 25-year service award to Mary Anderson, Chief Deputy District Attorney. Gunnels praised Anderson's prosecutorial skills and said he often seeks her advice.

5. Deschutes County District Attorneys' Association Collective Bargaining Agreement

Whitney Hale, Deputy County Administrator, summarized the terms of the collective bargaining agreement and associated Memorandums of Understanding. District Attorney Gunnels added that these agreements will improve the department's ability to retain staff and recruit new staff as needed.

ADAIR: Move approval of Board signature of the Collective Bargaining Agreement between Deschutes County and the Deschutes County District Attorneys' Association effective July 1, 2023 through June 30, 2026

CHANG: Second

VOTE: ADAIR: Yes
CHANG: Yes
DEBONE: Chair votes yes. Motion Carried

CHANG: Move approval of County Administrator signature of the Memorandum of Understanding for the DCDA Tier Implementation

ADAIR: Second

VOTE: ADAIR: Yes
CHANG: Yes
DEBONE: Chair votes yes. Motion Carried

ADAIR: Move approval of County Administrator signature of the Memorandum of Understanding for the DCDA Retention Bonus Incentive Program

CHANG: Second

VOTE: ADAIR: Yes
CHANG: Yes
DEBONE: Chair votes no. Motion Carried 2 - 1

Commissioners Adair and Chang stated their reasons for supporting the retention bonus incentive program.

6. Public Hearing: Remand of LBNW LLC Plan Amendment and Zone Change application 247-21-000881-PA, 882-ZC (247-23-000398-A)

Tarik Rawlings, Associate Planner, said the purpose of the public hearing is to consider a remand decision of the Oregon Land Use Board of Appeals regarding a Plan Amendment and Zone Change application proposed by LBNW LLC and originally approved by the Board under files 247-21-000881-PA, 882-ZC.

The public hearing was opened at 9:29 am.

Rawlings clarified statements made on June 26th at the Board's work session on this matter, saying the scope of the remand is limited *de novo* and restricted to the Goal 5 and Oregon administrative rule compliance. This matter concerns an application seeking to rezone and re-designate 19.12 acres at 65301 N Hwy 97 between Bend and Redmond from Agriculture/Exclusive Farm Use to Rural Industrial. After the application was approved by the Board in December of 2022, it was subsequently appealed and has now been remanded to the Board by LUBA to address whether the new industrial zoning designation would allow uses on the subject property that were not allowed under the previous Exclusive Farm Use zoning, and if so whether those uses could conflict with protected Goal 5 resources—specifically, scenic view resources.

Adam Smith, an attorney representing the applicant, clarified that because LUBA already determined that uses allowed in the Rural Industrial (RI) zone could conflict with Deschutes County's Goal 5 scenic view resources, the County is required to follow the "ESEE Decision Process" as set forth in OAR 660-023-0040. Smith explained the ESEE decision process and said the County's Comprehensive Plan identifies areas which extend one-quarter mile on either side of certain roads, including Highway 97 between the Bend and Redmond UGBs, as a Goal 5 scenic view resource. Smith emphasized that ESEE consequences are not outcome-determined, and the Board has discretion to group similar factors together. He presented a draft ESEE analysis for the Board's consideration, saying that such analyses require certain actions, as follows:

1. Identify the conflicting use(s), i.e., uses allowed in the RI zone which are different from the previous EFU zone;
2. Identify the area of impact, i.e. the 19.12 acres associated with the application;
3. Identify the consequences of the conflicting use(s) to economic, environmental, social and energy resources; and
4. Identify options such as prohibiting the conflicting use, allowing the conflicting use in a limited manner (e.g., with mitigating conditions), or fully allowing the conflicting use.

Smith said the applicant would be satisfied with either the second or third option and concluded that scenic resources are limited in this location.

Commissioner Chang noted that visual impacts can be vertical or extend horizontally across a landscape. He said it was important to consider the cumulative effects of seeing more industrial development in the view corridor as people drive down the highway. Smith said the applicant will provide more photographic evidence and reminded that for the purpose of this application, the County is limited to considering the impacts of allowing different uses on these

particular properties and is not able to consider the cumulative impacts of other properties and uses on the overall view corridor.

Responding to Commissioner Chang about the second option which would allow the conflicting use(s) in a limited manner with mitigation conditions, Smith said the base zoning could be changed and the landscape management overlay kept in place to mitigate any conflicting uses.

Rory Izbell of Central Oregon Land Watch said COLW appealed this matter to LUBA and continues to oppose this application. He disputed that this is a narrow issue on remand, saying the issue of scenic resources is broad as is Goal 5, and industrial uses are most counter to scenic resources than any other use. He requested that the record be kept open for seven days following the public hearing to allow COLW to read and digest the applicant's June 23rd letter and submit comments in response.

In rebuttal, Smith said LUBA's remand compels the Board to consider not just the social consequences that stem from its decision to approve the Plan amendment and zone change, but the economic, environmental and energy consequences as well, and these four types of consequences must be given equal weight.

In response to Commissioner DeBone, Rawlings confirmed that the final ESEE analysis would be incorporated into a decision of the Board, should they approve the request.

The public hearing was closed at 10:16 am.

Chair DeBone noted the consensus of the Board to leave the written record open for new evidence and testimony until 4:00 pm on Wednesday, July 5th.

Responding to Commissioner Adair, Rawlings confirmed that the only testimony allowed will be from persons or organizations with standing in this matter.

7. Public Hearing: Application for 2023 Community Development Block Grant

Erik Kropp, Deputy County Administrator, said Community Development Block Grant (CDBG) funds can be used to repair and improve housing to ensure suitable living environments for persons of low and moderate incomes. Business Oregon administers the state of Oregon's annual federal allocation of CDBG funds for non-metropolitan cities and counties, and the proposal is to apply for a \$400,000 grant which would be sub-granted to NeighborImpact for administration of the funds to eligible persons.

Andrew Spreadborough, Deputy Executive Director of NeighborImpact, read the required notice of public hearing into the record.

Commissioner Adair asked if these funds would be transferred to eligible persons as grants or loans. Spreadborough said these would be distributed as deferred loans made at a current interest rate of 6%. He added that households receiving the loans are generally considered to be unbankable, yet need funding for repairs to keep their homes habitable. Spreadborough added that NeighborImpact's intention is to serve as many households as possible, and the budget for administering these funds has not yet been finalized.

Commissioner Chang said this program offers a way to maintain moderate and affordable housing that otherwise might fall into disrepair and become uninhabitable.

The public hearing was closed at 10:31 a.m.

CHANG: Move approval of the submittal of an application to Business Oregon for 2023 Community Development Block Grant funds

ADAIR: Second

VOTE: ADAIR: Yes

CHANG: Yes

DEBONE: Chair votes yes. Motion Carried

8. Oregon Health Authority grant agreement #180009 for Public Health

Heather Kaisner, Public Health Director, summarized the terms of the intergovernmental agreement (IGA) and its program elements, noting that two new program elements will result in the County receiving \$1,517.82 for infection prevention training and \$622,298.28 for Public Health infrastructure.

Responding to Commissioner Chang, Kaisner confirmed that this agreement serves as the primary Public Health agreement with Oregon Health Authority.

ADAIR: Move approval of Chair signature of Document No. 2023-606, an intergovernmental agreement with Oregon Health Authority for grant funding in the amount of \$3,646,771.85 in FY 2024

CHANG: Second

VOTE: ADAIR: Yes

CHANG: Yes

DEBONE: Chair votes yes. Motion Carried

9. Award of agreement with Parametrix for sole source Solid Waste Management Facility Siting Phase II consulting services

Chad Centola, Solid Waste Director, explained the consulting work done by Parametrix over the past 19 months on Phase I of the County's Solid Waste Management Facility Siting process. This work included the development of criteria for siting a new landfill, coordinating public outreach, organizing and participating in monthly Solid Waste Advisory Committee meetings, meeting with state and federal regulatory agencies, and implementing the Phase I screening process. Solid Waste requests authorization to award a sole source contract to Parametrix for Phase II of this consulting work; this request is based on timing and Parametrix's known ability to satisfactorily complete the work.

Commissioner DeBone noted that prior to being awarded the contract for consulting work on Phase I of this project, Parametrix underwent a rigorous selection process.

Commissioner Chang asked whether those who were not selected for Phase I of this consulting work might have invested more in their responses to that solicitation had they known that the work for Phase II would be awarded outside of a competitive process.

Centola said during the RFQ process, all three candidates were told that a detailed scope of work for the second phase of the project was not yet available. Centola added that Parametrix is very well-qualified to do this work.

ADAIR: Move approval of Resolution 2023-038 for the sole source procurement of Solid Waste Management Facility Siting Phase II consulting services with Parametrix, Inc.

CHANG: Second

VOTE: ADAIR: Yes
CHANG: Yes
DEBONE: Chair votes yes. Motion Carried

CHANG: Move approval of Board signature of Document No. 2023-596, an agreement with Parametrix, Inc. for Solid Waste Management Facility Siting Phase II consulting services in the amount of \$799,220

ADAIR: Second

VOTE: ADAIR: Yes

CHANG: Yes
DEBONE: Chair votes yes. Motion Carried

The Commissioners expressed gratitude to Centola for his many years of quality public service to Deschutes County upon his retirement.

10. Intergovernmental Agreement between Deschutes County and the Oregon Judicial Department for Courthouse Improvements

Lee Randall, Facilities Director, presented an Intergovernmental Agreement with the Oregon Judicial Department for the receipt of \$2,000,000 to be used for the Deschutes County Courthouse expansion and improvement project. Randall explained that as the County embarks on the project to expand the Courthouse, it will also make certain improvements to the existing building such as a more accessible entrance, enlargement and upgrade of the security checkpoint, interior security improvements, and relocation of the hearing room. The State approved \$1,500,000 towards these improvements along with an additional \$500,000 for furniture, fixtures and equipment to be used in both the existing and expanded areas of the building.

CHANG: Move approval of County Administrator signature of Document No. 2023-637, an intergovernmental agreement between Deschutes County and the Oregon Judicial Department for Courthouse improvements

ADAIR: Second

VOTE: ADAIR: Yes
CHANG: Yes
DEBONE: Chair votes yes. Motion Carried

11. Resolution 2023-040 establishing Solid Waste Disposal Fee Waivers for Fiscal Year 2024

Tim Brownell, Incoming Solid Waste Director, explained the County's policy which exempts certain non-profit organizations from solid waste disposal fees up to a maximum amount of \$5,000 per organization. Organizations which qualify are those such as thrift stores which reuse or resell used goods and thus serve to divert waste from the landfill. Eleven organizations have applied for the program for the next fiscal year; the department proposes budgeting a total of \$40,000 for these fee waivers.

ADAIR: Move approval of Resolution No. 2023-040, amending Resolution No. 2001-038 to establish Solid Waste disposal fee waiver amounts for

the 2023-2024 Fiscal Year
 CHANG: Second
 VOTE: ADAIR: Yes
 CHANG: Yes
 DEBONE: Chair votes yes. Motion Carried

12. CORE3 project land use entitlement applications

Kristie Bollinger, Property Manager, provided an update on the Central Oregon Ready Response Resilient (CORE3) project which will site a public safety training and emergency coordination facility in east Redmond on 300 acres which Deschutes County owns and will donate for this use. The Central Oregon Intergovernmental Council (COIC) serves as the fiscal administrator and project manager for this project.

Bollinger explained work done to prepare required land use entitlements for submittal to the City of Redmond and the County, which include necessary applications and associated documents for 1) a Comprehensive Plan Text Amendment; 2) an Urban Growth Boundary Amendment; 3) a Master Development Plan; 4) Zone Changes, Annexation, & Land Partition; and 5) Deschutes County Plan Map & Zone Change. These land use entitlement applications have been finalized and are ready to submit to Redmond and the County’s Community Development Department for processing.

Scott Aycok, COIC Community and Economic Development Director, said 27 local agencies have agreed to participate in this project, including the Prineville Police Department. COIC will continue to seek additional funding from the State for this project.

Commissioner Adair noted the property to be donated by the County is valued at \$16,300,000.

CHANG: Move approval of Board Order No. 2023-027 authorizing the Deschutes County Property Manager to sign land use entitlement applications and associated documents for the CORE3 project
 ADAIR: Second
 VOTE: ADAIR: Yes
 CHANG: Yes
 DEBONE: Chair votes yes. Motion Carried

13. Contract with Central Oregon Bio Solutions for property clean-ups on an

as-needed basis

Kristie Bollinger, Property Manager, said this contract would support the work being done on County-owned property in the north Juniper Ridge area in response to Code enforcement violations resulting from homeless encampments. Noting that this vendor is experienced in cleaning sites which involve general waste, biohazard materials, unsafe structures, and abandoned vehicles and RVs, Bollinger concluded that the proposed agreement is a cooperative contract in conjunction with the City of Bend's existing contract with Bio Solutions.

ADAIR: Move approval of Document No. 2023-372, a contract with Central Oregon Bio Solutions for property clean-ups on an as-needed basis
CHANG: Second

VOTE: ADAIR: Yes
CHANG: Yes
DEBONE: Chair votes yes. Motion Carried

14. Deliberations on the Griffin/Renfro Plan Amendment and Zone Change for approximately 40 acres one mile east of the City of Bend

Rachel Vickers, Associate Planner, described the request for a request for a Comprehensive Plan Amendment to re-designate approximately 40 acres one mile east of the City of Bend from Agriculture to Rural Residential Exception Area and a corresponding Zoning Map Amendment to rezone the properties from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA10) (file nos. 247-22-000792-PA, 793-ZC). The Hearings Officer recommended approval of this request; a public hearing was held before the Board on May 31st.

Commissioner Chang stated he had an in-depth discussion with Arnold Irrigation District to find out more about water rights; however, his decision for this application will not take those communications into consideration.

1. Does the subject property constitute agricultural land, as defined by OAR 660-033-0020(1)(a)?

A majority of the Board was in consensus with the finding of the Hearings Officer that the property is not agricultural under the statewide planning goals.

2. Does the site-specific soil study show the property is predominantly Class VII-VIII soils?

A majority of the Board was in consensus that the site-specific soil study shows the property is predominantly Class VII-VIII soils.

3. Has there been a change in circumstances since the property was last zoned?

A majority of the Board was in consensus with the finding of the Hearings Officer that change in circumstance since the property was last zoned does exist, including but not limited to new soil data.

4. Does Goal 14 apply to the subject application?

A majority of the Board was in consensus with the finding of the Hearings Officer that Goal 14 does not apply to the subject application because it does not involve property within a UGB and does not involve the urbanization of rural land.

CHANG: Move approval of the Plan Amendment and Zone Change for file nos. 247-22-000792-PA, 793-ZC pursuant to DCC 22.28.030 (Griffin/Renfro)

ADAIR: Second

VOTE: ADAIR: Yes

CHANG: Yes

DEBONE: Chair votes yes. Motion Carried

OTHER ITEMS:

- County Administrator Nick Lelack referred to a letter received from Governor Tina Kotek in response to the County's request for land use flexibility to site supported camps.

Commissioner DeBone stated his appreciation for the Governor's response. Commissioner Chang said it appeared that the governor's office is trying to assess the probability of success of the County's proposal. Commissioner Adair shared she will tour the Gales property tomorrow and noted that some homeless persons do not want to be in a high-barrier shelter inside of city limits; rather, they want to be able to retain possession of their vehicles and pets.

Discussion ensued about how to respond to the Governor's letter and who should coordinate or lead the response effort. The Board reached consensus to have staff gather and assemble the requested information and present a draft response to the board of the Coordinated Houseless Response Office (CHRO) before bringing it to the Commissioners for their consideration. Commissioner Chang asked that staff loop in the Bend City Council as well as all of the CHRO member jurisdictions in this effort.

- County Administrator Nick Lelack referred to the proposed land swap with the State involving County-owned property in Redmond.

Deputy County Administrator Erik Kropp said as staff resources will be directed towards addressing Juniper Ridge at this time, activities associated with the DSL land swap will be placed on hold. He agreed to make this known to the City of Redmond and the State along with the REDI Board, Fair Board, and service providers in Redmond as appropriate.

At 12:13 pm, Chair DeBone announced that the Board would recess for lunch and reconvene at 1:00 in the Allen Room for executive session.

EXECUTIVE SESSION:

At 1:02 pm, the Board entered executive session under ORS 192.660 (2) (d) Labor Negotiations.

The Board moved out of executive session at 1:21 p.m. with no action taken.

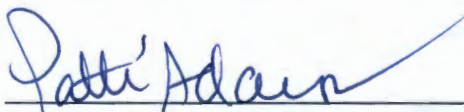
ADJOURN:

Being no further items to come before the Board, the meeting was adjourned at 1:21 pm.

DATED this 9th day of Aug 2023 for the Deschutes County Board of Commissioners.



ANTHONY DEBONE, CHAIR



PATTI ADAIR, VICE CHAIR

ATTEST:



PHIL CHANG, COMMISSIONER



RECORDING SECRETARY