



BOARD OF COMMISSIONERS

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

FOR RECORDING STAMP ONLY

BOCC MEETING MINUTES

9:00 AM

WEDNESDAY January 18, 2023

Barnes Sawyer Rooms
Live Streamed Video

Present were Commissioners Anthony DeBone, Patti Adair, and Phil Chang. Also present were Nick Lelack, County Administrator; Dave Doyle, 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:

- Keith Harliss objected that two of the sites under consideration to locate a new landfill are directly adjacent to 20+ year-old residential communities. He listed documented adverse health risks from these facilities and said in addition to real health hazards, landfills also pose substantial environmental concerns. He urged that the Rickard Road and Bear Creek Road sites be removed from consideration.

Commissioner DeBone thanked Dr. Harliss for his engagement and noted this is a significant issue to decide. He said only one site is needed for this 100-year landfill, and the list of 12 potential sites will be narrowed to 3-5 in the next phase.

Commissioner Chang expressed interest in the studies mentioned by Dr. Harliss, noting that technology has advanced over the last 50 years and landfills are constructed differently nowadays. Dr. Harliss emphasized that the studies are of sites containing non-hazardous waste. He said even if minor, health hazards are real to those who experience them.

Responding to Commissioner Adair, County Administrator Nick Lelack said all of the comments being submitted on this subject are being gathered up and will be presented to the Board in one packet.

Chair DeBone acknowledged the receipt of emails from:

- Janet White, opposing the Thornburgh Resort project;
- Eight persons supporting an update of the wildlife inventory; and
- Three persons supporting granting Tumalo specific representation on the Planning Commission.

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

Commissioner Adair thanked Jim Morrell and acknowledged Carrie Novick and Wendie Every regarding their service on and appointments to the Fair Board.

ADAIR: Move Board approval of Consent Agenda
CHANG: Second

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

1. Consideration of Resolution No. 2023-002 increasing program appropriations within the Campus Improvement Fund and Transfer Out appropriations within the Adult Parole & Probation Fund, Health Services Fund, Veterans' Services Fund, Information Technology Fund and the 2022-23 Deschutes County Budget
2. Consideration of Board Signature on letters of appointment, reappointment and thanks for various Special Road Districts
3. Consideration of Board Signature on a letter reappointing Carrie Novick to the Deschutes County Fair Board for a term commencing January 1, 2023 through December 31, 2025
4. Consideration of Board Signature on a letter appointing Wendie Every to the Deschutes County Fair Board for a term commencing January 1, 2023 through December 31, 2025

5. Consideration of Board Signature on a letter thanking Jim Morell for serving on the Fair Board
 6. Consideration of Resolution No. 2023-005, as the governing body of the 9-1-1 Service District, transferring appropriations between Program Expense and Transfers Out within the 9-1-1 Service District Fund and the 2022-23 Deschutes County Budget
-

ACTION ITEMS:

7. 2023 Legislative Session Update

Doug Riggs from Northwest Policy Associates said a record number of bills are expected to be introduced this legislative session on various topics such as tolling, housing, homelessness, wildfire mapping, and behavioral and public health, among many others.

Deputy County Administrator Whitney Hale shared that the Board's first standalone legislative update of 2023 will be next Friday, January 27th.

Commissioner DeBone noted the County plans to ask the State for funding for the planned courthouse expansion. Commissioner Adair asked that the total square footage be verified and said some have suggested the County request \$25 million. Deputy County Administrator Whitney Hale said the square footage is 58,300, although this may change slightly until the plans are finalized.

Commissioner Chang asked where any funds allocated would come from, and who would be involved in processing the County's funding request. Riggs explained that requests are made through appropriate legislators, then forwarded to the Ways & Means Committee. He said much will depend on the forthcoming revenue forecast which will be shared in May, and did not expect to know the outcome of the County's request until late May/early June although the legislature has demonstrated strong support for courthouse projects in the past few sessions.

Commissioner Adair asked to know how much Clackamas County requested. Hale said that request was \$94.5 million.

Riggs stated that \$25 million would be a reasonable request, especially as the project will generate capital investment and job creation, and courthouse work solves problems. He said these factors can be put together to make a fiscal case for consideration by Ways & Means.

Commissioner DeBone suggested including a paragraph explaining that the deputy district attorneys will gain a whole new floor for expansion of their office.

Commissioner Chang advised that the letter also compare Deschutes County's growth with that of Clackamas County's to also position Deschutes County as a growing area.

Commissioner DeBone said this project will implement a plan that has been in place for many years. It will result in the build-out of an integrated campus and provide for future growth in the way of one or two additional judges, as and when needed.

At 9:44 am, the Board moved to Other Items in advance of the public hearing starting at 10 am.

OTHER ITEMS (continued on page 7):

- Commissioner DeBone noted the Board will hold the first part of its annual retreat this afternoon, part of which will be spent on setting goals and objectives for the year.
- Commissioner Chang reported that the recent meeting of the Cannabis Advisory Panel included a presentation from Jessica Jacks regarding prevention of substance abuse by youth as well as a discussion of how cannabis tax revenue is being used and the possibility of directing resources to juvenile justice to help curb long-term problems.
- Commissioner Chang spoke to a local government grant program to build and operate parks and suggested that the County consider applying next year for campgrounds to anchor a new park.
- Commissioner Adair reported on a well-attended event hosted by the Chamber on missing middle housing by Nathan Wildfire and said KOR Land Trust was also there.
- Commissioner DeBone met with Kyle Hensley and Amanda Roberts from the Bureau of Land Management's Prineville District Office regarding dispersed camping in the Redmond Airport's runway protection zone.
- Commissioner DeBone shared that the annual Point in Time count is next Wednesday, and Redmond's community discussion on homelessness is tomorrow night.
- County Administrator Nick Lelack conveyed a request to use the Justice Building for a mock trial competition on Saturday, February 11th. Commissioners DeBone and Chang favored granting the request.

At 9:55 am, a short break was announced.

Chair DeBone reconvened the meeting at 10:01 am.

8. Public Hearing on a request to change the Comprehensive Plan designation of 59 acres in the 21400 block of Bear Creek Road from Agricultural to Rural Residential Exception Area with a corresponding Zone change from Exclusive Farm Use to Multiple Use Agricultural (Marken)

Audrey Stuart, Associate Planner, summarized the request and the procedure for the public hearing.

Responding to a question from Commissioner DeBone, Stephanie Marshall, Assistant Legal Counsel, said the Hearings Officer's issued a recommendation; it is not a decision. Rather, the Board is the decision-making body and will decide whether or not to accept the recommendation of the Hearings Officer.

Stuart reviewed the four options for proceeding after the conclusion of the public hearing, as follows:

- Continue the hearing to a date and time certain;
- Close the oral portion of the hearing and leave the written record open to a date and time certain;
- Close the hearing and commence deliberations; or
- Close the hearing and schedule deliberations for a date and time to be determined.

Commissioner Chang appreciated staff providing a zoning and vicinity map that shows the zoning of nearby properties.

The public hearing was opened at 10:15 am.

Liz Fancher, representing the applicant Harold Marken, said Marken has owned this property for decades. Fancher described the property and the surrounding area and said it is good long-term planning to classify this property as nonagricultural land. She presented results of the soils test and explained why the property it is not suitable for profitable grazing as well as why irrigation would not make it suitable for farm use. The applicant believes this change would serve the public health, safety and welfare and requests approval.

Rory Isbell from Central Oregon Landwatch communicated that organization's opposition to the requested rezone. Isbell noted previous agricultural use of this land, which was mostly irrigated back to 2005, and said the property used to have 36 acres of water rights until some of those were sold. He asked that the soils report be carefully read as it demonstrates that most of the land contains soils between Class I-VI, which is suitable for farming. He concluded that the courts have determined profitability to be a minor consideration and said COLW believes this to be clearly agricultural land protected by Goal 3.

Commissioner DeBone noted the court case cited by Isbell pertained to land in Douglas County, which is on the west side of the mountains and thus experiences far different conditions than land in Deschutes County.

Fancher provided the applicant's rebuttal to Isbell's remarks, saying that the property is in fact extremely poor quality as documented in the soils report. She explained how soils testing is done and said the property owner made extreme efforts to turn a profit from farming but was unable to. She concluded that the expert evidence in the record supports the rezone.

Responding to Commissioner Chang, Fancher said the property owner farmed the land for about 40 years, stopping in 2016. Since 2018, water rights to all but nine acres have been relinquished.

The public hearing was closed at 11:00 am.

Chair DeBone said the County will accept written comments on this matter until 4 pm on Wednesday, January 25th with a rebuttal until 4 pm on Wednesday, February 1st. Final argument from the applicant must be submitted by 4 pm on February 8th. The Board will take up final deliberations on March 1st.

OTHER ITEMS (continued from page 5):

- Commissioner Chang noted the many requests for Comprehensive Plan amendments and rezones coming forward, expressed concern about supporting reasonable urban expansion for the City of Bend, and said the County should coordinate with the City on changes being made to land within Bend's Urban Growth Boundary. He was concerned with developing property in the UGB at a lower density than may be wanted or needed later and suggested exploring the formation of an Urban Reserve area.

County Administrator Nick Lelack offered to work with Bend City Manager Eric King on these efforts. Commissioner DeBone commented that many people want a home with some acreage, and he supported that these, too, be available.

- Commissioner DeBone announced the Board's annual retreat today and Friday.
- Commissioner DeBone shared a brochure for Core 3, a multi-agency coordination center and training facility to prepare for emergency responses to natural disasters such as wildfire and flooding.

EXECUTIVE SESSION: None

ADJOURN:

Being no further items to come before the Board, the meeting was adjourned at 11:19 a.m.

DATED this 8th Day of February 2023 for the Deschutes County Board of Commissioners.



ANTHONY DEBONE, CHAIR



PATTI ADAIR, VICE CHAIR

ATTEST:



RECORDING SECRETARY



PHIL CHANG, COMMISSIONER