



## BOARD OF COMMISSIONERS

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

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# BOCC MEETING MINUTES

3:30 PM

**MONDAY October 14, 2024**

Allen Room  
Live Streamed Video

Present were Commissioners Patti Adair, Tony DeBone and Phil Chang. Also present were County Administrator Nick Lelack; Deputy County Administrator Whitney Hale; Deputy County Administrator Erik Kropp; Senior Assistant Legal Counsel Kim Riley; and BOCC Executive Assistant Brenda Fritsvold.

This meeting was audio and video recorded and can be accessed at the Deschutes County Meeting Portal webpage [www.deschutes.org/meetings](http://www.deschutes.org/meetings).

**CALL TO ORDER:** Chair Adair called the meeting to order at 3:30 pm.

### **CITIZEN INPUT:**

- Renee Carpenter thanked the Board for attending to the matter of determining a process to appoint new members to the La Pine Parks & Recreation Board. Saying it is not realistic that the Board will be reinstated by October 20<sup>th</sup>, she encouraged rescission of the decision made to lay off all of the district's staff and stressed that even a temporary loss of the after-school program would impose significant hardship on parents who depend on this program for after-school childcare.
- Teri Myers, the clerk of the La Pine Parks & Recreation Board, provided background information on the district's operations and finances and shared that a line of credit opened by the district has been maxed out.

## **ACTION ITEMS:**

### **1. Public Hearing regarding Civil and Environmental Consultants, Inc. Protest of Document No. 2024-759 Notice of Intent to Award a contract for the Landfill Siting Consultant Services – Phase 3 to Parametrix, Inc.**

Tim Brownell, Director of the Solid Waste Department, reported that following the Board's approval of staff's recommendation to award the contract for the Landfill Siting Consultant Services – Phase 3 to Parametrix, a protest was submitted by Civil and Environmental Consultants (CEC). Brownell reminded that two proposals had been received in response to the RFP issued for this work.

Stephanie Marshall, Senior Assistant Legal Counsel, explained the provisions in ORS 279B which outline the necessary legal criteria for considering a protest. Marshall listed four decision points for the Board to consider in this matter in accordance with ORS 279B, as follows:

1. Has CEC demonstrated that all the higher ranked proposals are nonresponsive?
2. Has CEC demonstrated that the County failed to conduct the evaluation of proposals in accordance with the criteria or processes described in the solicitation materials?
3. Has CEC demonstrated that the County abused its discretion in rejecting CEC's bid or proposal as nonresponsive? OR
4. Has CEC demonstrated that the County's evaluation of bids or proposals or the County's subsequent determination of award is otherwise in violation of ORS 279A?

*The public hearing was opened at 3:42 pm.*

Jeff Shepherd, representing CEC, said the two proposals received by the County for this work were very different in terms of what was presented by each of the proposers. He listed the reasons for CEC's protest of this contract award to Parametrix, as follows:

- Protest Point No. 1: Parametrix appears to have had more information available to it than CEC did when formulating its proposal for the project's Phase 3 work. Shepherd referred to the statement by Parametrix that Phase 2 work—done by Parametrix—could be used to jump-start the permitting process for Phase 3 work.
- Protest Point No. 2: Information gleaned from work done by Parametrix in Phase 1 and Phase 2 of the project was not available to CEC, yet was used by Parametrix to develop its response to the RFP.
- Protest Point No. 3: Although DEQ will not review a permit application without a land use compatibility statement (LUCS), Parametrix indicated that DEQ will review the permit application without a signed LUCS. In addition, a

“mid-2026 deadline for the DEQ permit” was referenced by Parametrix but unknown to CEC.

- Protest Point No. 4: Parametrix assumed a 39-month schedule, while CEC assumed a six-year schedule based on how much time different project components/requirements will take, including conditional use permitting and conducting environmental assessment associated with securing a right-of-way easement from BLM.
- Protest Point No. 5: A significant portion of CEC’s cost estimate involves the needed cultural resources survey work. CEC assumed that up to 40 shovel test sites will be required, while Parametrix proposed a pedestrian survey at 20-meter transect intervals and no shovel probes unless deemed necessary based on the results of the pedestrian survey. CEC noted that three archaeological sites and two archaeological isolates are known to be within the project area.
- Protest Point No. 6: Parametrix indicated that coordination with USFW to comply with the Bald and Gold Eagle Protection Act and to secure a Migratory Bird Treaty Act permit may be required, while CEC assumed this work will be required and included associated costs in its estimate.
- Protest Point No. 7: CEC assumed that traffic count data will be required as part of the conditional use permit; Parametrix indicated that this could be provided at a separate cost.
- Protest Point No. 8: For the site characterization and geotechnical investigative work (i.e., the electrical resistivity geophysical surveys), Parametrix responded for the Phase 1 area only but CEC was told to respond for both the Phase 1 and Phase 2 areas, which had a large impact on CEC’s cost estimate.
- Protest Point No. 9: With regard to public outreach, Parametrix proposed just two public open houses while CEC proposed one each quarter for the duration of the project.
- Protest Point No. 10: Parametrix stated that the BLM ROW and associated environmental review would be completed an additional cost, whereas CEC included this work at an estimated cost of \$100,000 in its proposal.

Shepherd concluded that CEC believes its proposal to be more comprehensive than Parametrix’s and that CEC’s proposal minimizes the chance of amendments to the contract. He said it is difficult to compare the two proposals as they are very different from each other, in part because it appears that Parametrix had insider information that was not conveyed to CEC.

- Dwight Miller from Parametrix said Parametrix is knowledgeable with respect to Deschutes County and its hydrology and geology, familiar with applicable state and local agencies, and strategic in laying out its projects. He added

that Parametrix has experience with this project in both Phase 1 and Phase 2.

- Gerry Friesen said his company has worked on the design and permitting of many landfills in the Pacific Northwest, and has worked here in Deschutes County since 1994. He stated that the approach used for this proposal was the same one used for the Knott Landfill and also for Knott's expansion.
- Shawn Cordes from Delve Underground reported that a preliminary test pit program in 2023 found shallow bedrock conditions at the Moon Pit site, and said the next phase of work is scheduled to start in November and be completed early next year. Adding that their fee was included in the total geotechnical fee proposed by Parametrix, he was confident that the planned deliverables to DEQ will satisfy the State's requirements.
- Stephanie O'Brien, the Cultural Resource Lead for Phase 3 of this project, spoke to the Cultural Resource Technical Report that will be produced after the necessary surveys are conducted. She noted it was not possible to know if further investigation will be needed, and if so, the extent and impacts of that.
- Aubrie Koenig, Outreach Lead for the project, said the proposed public outreach approach was designed to support communication to the public as well as the project's permitting needs.
- Ryan Rudnick, Project Manager of the proposed Phase 3 team, said Parametrix has performed site-specific research which informed its proposal for the Phase 3 work. Saying that Parametrix proposed to permit this facility years sooner than CEC envisions, and for less cost, he spoke to the company's extensive prior fieldwork and shared that a portion of the cultural resources work has already been completed. He concluded that Parametrix's nearly three years of work on Phase 1 and Phase 2 positions it as the strongest team to support this project and achieve it in the desired timeframe.

Brownell acknowledged that Parametrix has a deep understanding of the site and the County, both of which facilitated its response. He said while CEC provided a robust response, its timeline is linear, and the County's experience with DEQ and CDD is such that the department thinks that a DEQ permit could be pursued parallel to a conditional use permit. Brownell also confirmed that all of Parametrix's work which was completed for Phases 1 and 2 was disclosed to all proposers with approximately 1200 records produced for proposers to review.

In response to Commissioner Chang, Brownell confirmed that DEQ is likely to review a permit application with the understanding that it would not be approved until all other needed permits are in hand.

Brownell added that the County's experience with Parametrix is that it works within the budget allotted to it, even when timelines are extended. He noted that the cost of the work was only 10% of the selection committee's determination.

In response to Commissioner Adair, Brownell said staff does not see the need to offer public meetings each quarter as there will be public processes associated with both the DEQ permit and the conditional use permit.

Shepherd reiterated that CEC was specifically directed to explore the entire site, not just Phase 1 as reflected in Parametrix's proposal. Referring to his understanding that DEQ would not review a permit application without certain approvals, he said a more clear RFP would have prevented the receipt of these disparate proposals.

*The public hearing was closed at 4:57 pm.*

The Board was in consensus to close the oral record, keep the written record open until 4:00 pm on October 21<sup>st</sup>, and schedule deliberations for Wednesday, October 30<sup>th</sup>.

**2. Work Session in preparation for a Public Hearing: CORE3 Comprehensive Plan Amendment and Zone Change for approximately 228 acres adjacent to and north of Highway 126 in Redmond**

Haleigh King, Associate Planner, said a public hearing has been scheduled for October 16<sup>th</sup> to consider a Comprehensive Plan Amendment to change the designation of approximately 228 acres from Agricultural (AG) to Redmond Urban Growth Area (RUGA) and a corresponding Urban Growth Boundary (UGB) expansion. The applicant also requests a Zone Change to rezone the subject property from Exclusive Farm Use (EFU) to Urban Holding (UH-10).

Referring to maps, King noted that Redmond is considering annexing this property into its city limits. The Hearings Officer issued a recommendation of approval on the applications, as did the Planning Commission. No comments have been received opposing these proposals.

Commissioner Adair asked to know the value of the 300 acres donated by the County for the CORE3 project.

**3. La Pine Parks & Recreation Board Appointment Process Discussion**

Whitney Hale, Deputy County Administrator, reminded that last week, the five members of the La Pine Parks & Recreation District (LPPRD) Board resigned. According to State law, the Board of County Commissioners (BOCC) is responsible

for appointing new members to the LPPRD to terms which will expire on June 30, 2025. Elections will be held next spring for all five positions of the LPPRD Board.

In response to Commissioner Chang, Steve Dennison, County Clerk, confirmed that the LPPRD Board positions are staggered in their terms.

Commissioner Chang noted that members of the La Pine community have asked that services provided by the LPPRD such as the after-school program continue until the new Board appointments are made. He asked if the BOCC can either reverse the decision of the former LPPRD Board to lay off all of the District's staff, or change the effective date of those layoffs.

Senior Assistant Counsel Kim Riley said addressing the operations of the District is outside the scope of the BOCC's authority as the BOCC only has the authority to appoint members to the LPPRD Board.

Commissioner Chang wanted to ensure continuity of critical services or a resumption of these as soon as possible. He said the BOCC needs to fully understand what led to the mass resignation so it appoints Board members who can address the relevant issues.

Hale proposed that the BOCC solicit resumes and letters of interest from persons interested to be appointed to the LPPRD Board. She noted the consensus of the BOCC to conduct interviews before making appointments.

Commissioner DeBone commented that the LPPRD's annual tax base is approximately \$350,000 and this year's revenues will become available next month as property taxes are paid.

Noting that all five positions on the LPPRD Board will be up for election next May, Commissioner DeBone suggested that leadership training be made available to the new board members. He referred to the need for better management of the District's budget and suggested that the District might benefit from appointing a separate budget committee.

In response to a question from Renee Carpenter, Teri Myers said the new LPPRD Board will hire an executive director, who will in turn hire additional staff as needed.

**OTHER ITEMS:** None

**EXECUTIVE SESSION:** None

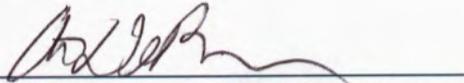
**ADJOURN:**

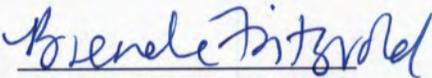
Being no further items to come before the Board, the meeting was adjourned at 5:27 pm.

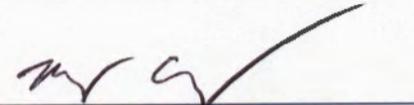
DATED this 18<sup>th</sup> day of November 2024 for the Deschutes County Board of Commissioners.

  
PATTI ADAIR, CHAIR

**ATTEST:**

  
ANTHONY DEBONE, VICE CHAIR

  
RECORDING SECRETARY

  
PHIL CHANG, COMMISSIONER