



BOARD OF COMMISSIONERS

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

FOR RECORDING STAMP ONLY

BOCC MEETING MINUTES

2:00 PM

MONDAY June 5, 2023

Allen Room
Live Streamed Video

Present were Commissioners Anthony DeBone and Phil Chang. Also present were Nick Lelack, County Administrator; Erik Kropp, Deputy County Administrator; Whitney Hale, Deputy 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 2:00 p.m. and noted the excused absence of Commissioner Adair.

CITIZEN INPUT: None

AGENDA ITEMS:

1. Consideration to increase solid waste franchise fees from three percent to five percent to fund nuisance abatement compliance

Tim Brownell, Incoming Solid Waste Director, presented a proposal to amend Deschutes County Code sections 13.24.120 (Fees for Commercial Haulers) and 13.24.120 (Fees for Noncommercial Haulers) to increase solid waste franchise fees from three percent to five percent. Staff anticipates these increases would generate approximately \$240,000 per year; the first \$200,000 received would be transferred to the Community Development Department (CDD) to fund nuisance abatement compliance.

Brownell explained that franchise fees are assessed on commercial and noncommercial haulers which provide services to residents and businesses within the unincorporated areas of the County. These increases would be passed on to customers of the haulers through their monthly service fees; the average residential customer would pay approximately \$0.60 more per month for a 65 gallon garbage bin, and the average business would pay approximately \$6 per month more for a four cubic yard container.

Commissioner Chang said while the County is responsible for ensuring that properties determined to be in violation of Code are brought into compliance, he sought more information on whether this revenue source is the appropriate one to fund those efforts.

Brownell referred to the risk of unmanaged waste posing environmental hazards and confirmed that the Solid Waste Department is tasked with ensuring the proper disposal of waste to address and alleviate contamination concerns.

County Administrator Nick Lelack added that Solid Waste is responsible for enforcing the nuisance code, and contracts with CDD to do that work.

Peter Gutowsky, Community Development Director, said at least 30% of the County's Code enforcement cases involve solid waste.

Responding to Commissioner DeBone, Brownell said if the increased funds are no longer needed in the future, staff will return to the Board and either propose that the fee increase be retracted or the revenues be allocated to a different purpose.

Brownell concluded that a public hearing will be held on this proposal on June 21st.

2. Oregon Revised Statute (ORS) 197.307(4) "clear and objective" standards for rural residential housing

Will Groves, Planning Manager, explained that ORS 197.307(4)1 requires local governments to adopt and apply clear and objective standards, conditions and procedures to regulate housing development. In 2017, Senate Bill 1051 expanded the applicability of this provision outside of UGBs to all rural lands. As a result, discretionary standards are subject to challenge and may be unenforceable.

Groves said the applicant of the Eden Central development has argued that the majority of Deschutes County's rules are not enforceable because they are not clear and objective. To remedy this situation, County staff are coordinating with Association of Oregon Counties on HB 3197 which was introduced in the current legislative session; this bill would clarify that ORS 197.307(4) does not apply outside of

UGBs. Groves spoke to the increased likelihood of appeals and other potential problems if HB 3197 does not pass and said the County could be forced to allocate a very large amount of staff resources towards drafting and accomplishing updates to its Code.

Peter Gutowsky, Community Development Director, added that Washington County has been working since 2017 or 2018 to update its code in response to these regulations,, but a court found that its attempts resulted in rules which were not sufficiently clear and objective.

3. Work Session on Senate Bill 391 – Rural Accessory Dwelling Units Legislative Amendments

Kyle Collins, Associate Planner, reviewed the work done thus far to develop regulations to allow accessory dwelling units (ADUs) in rural areas and described recent state legislative changes associated with SB 644 and SB 391, both of which affect rural ADU standards. Collins explained that SB 644 removes the connection that previously existed between the Statewide Map of Wildfire Risk and the development of local ADU standards. Additional changes have established clear and objective standards for rural ADU development.

In light of these changes, staff requests direction whether the County should initiate a new Post-Acknowledgement Plan Amendment (PAPA) notice to DLCDC to incorporate all recent legislative changes into the County's proposed ADU regulations. This would restart the ADU adoption process and allow for additional public comment. Collins said DLCDC staff has indicated it does not believe a new PAPA notice is required; however, staff notes there is an unknown level of legal vulnerability associated with not reinitiating the adoption process.

Stephanie Marshall, Senior Assistant Legal Counsel, provided further comment and advice on the options before the Board.

Commissioner DeBone said he always envisioned that this matter would return to the Planning Commission for a secondary review.

Following discussion regarding the options for proceeding and the timeframes involved in each, Chair DeBone noted the consensus of the Board to restart the process, which will require a new work session before the Planning Commission, and schedule the required public hearings before the Board. A separate joint meeting of the Board and the Planning Commission will also be scheduled.

OTHER ITEMS:

- Jen Patterson, Strategic Initiatives Manager, distributed a draft letter of support to potential funders for the Heart of Oregon Corps campus campaign. A majority of the Board was in consensus to sign the letter as drafted.
- Following discussion, the Board concurred to send emails to certain individual legislators regarding HB 5525 in support of public health funding.
- County Administrator Nick Lelack said the Board's customary annual joint meeting with the Planning Commission is tentatively scheduled for July 13th.
- Commissioner Chang shared that the Coalition for the Deschutes' "Springs to Sprouts" tour last Saturday highlighted efforts to track water diversion.
- Commissioner Chang reported he will be out of the office this Friday and unable to attend the Made in Redmond event.

EXECUTIVE SESSION: None

ADJOURN:

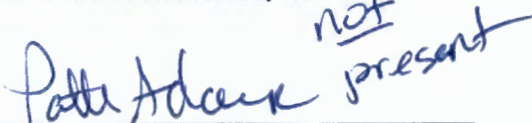
Being no further items to come before the Board, the meeting was adjourned at 3:21 p.m.

DATED this 19th Day of July 2023 for the Deschutes County Board of Commissioners.



ANTHONY DEBONE, CHAIR

ATTEST:



PATTI ADAIR, VICE CHAIR



RECORDING SECRETARY



PHIL CHANG, COMMISSIONER