



BOARD OF COMMISSIONERS

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

FOR RECORDING STAMP ONLY

BOCC MEETING MINUTES

9:00 AM

WEDNESDAY September 4, 2024

Barnes Sawyer Rooms
Live Streamed Video

Present were Commissioners Patti Adair, Tony DeBone and Phil Chang. Also present were County Administrator Nick Lelack, 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.

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

PLEDGE OF ALLEGIANCE

CITIZEN INPUT:

- Carl Shoemaker said faulty assistance received from Central Oregon Representative Payees and associated mismanagement of his finances has resulted in him experiencing significant economic distress.

Commissioner Adair encouraged Mr. Shoemaker to visit the County's Veterans Services Office and ask for Sean Kirk, to see what assistance is available for him as a veteran.

- Dorinne Tye spoke to the need for clean air and water and said the County is abdicating its duty to protect citizens from flight training schools which terrorize many and have tremendous negative impacts on the environment and human health.

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

1. Approval of Document No. 2024-672, accepting a Drug-Free Communities Grant from the CDC
2. Approval of minutes of the BOCC July 22, 2024 meeting

DEBONE: Move approval of the Consent Agenda as presented

CHANG: Second

VOTE: CHANG: Yes

DEBONE: Yes

ADAIR: Chair votes yes. Motion Carried

ACTION ITEMS:

3. Proclamation: Suicide Prevention Awareness Month

Caroline Suiter, Mental Health Promotion Strategist, presented an overview of the County's suicide prevention program, describing available resources.

Bethany Kuschel, Suicide Prevention Project Coordinator, announced upcoming events to raise awareness of suicide prevention.

The Commissioners read the proclamation into the record.

CHANG: Move approval of the proclamation declaring September 2024 to be "Suicide Prevention Awareness Month" in Deschutes County

DEBONE: Second

VOTE: CHANG: Yes

DEBONE: Yes

ADAIR: Chair votes yes. Motion Carried

Commissioner Adair referred to the rate of veteran suicides and reminded that the County's Veterans Services Office is a resource for military veterans and their families.

4. North Juniper Ridge Managed Camp or Similar Temporary Sheltering Opportunities Discussion and Preparation for Joint Meeting with the Bend City Council

Nick Lelack, County Administrator, reminded that last week Commissioners directed staff to schedule a Board discussion on the legal opportunities to establish a managed camp or similar temporary sheltering opportunities on City- or County-owned property, zoned Exclusive Farm Use, at the north end of Juniper Ridge. Tomorrow afternoon, the Board of County Commissioners and Bend City Council will conduct a joint meeting, including an agenda item to discuss managed camp strategies in support of the Coordinated Houseless Response Office and specifically opportunities at the north end of Juniper Ridge.

Commissioner Adair advocated for establishing a temporary managed camp to protect against wildfires.

Commissioner Chang asked for information about key considerations and concerns--particularly potential legal issues—regarding a possible managed camp at North Juniper Ridge.

Dave Doyle, County Counsel, said the County cannot site a homeless facility on Resource-zoned land, but this may be allowed on land zoned for Open Space and Conservation (OS&C). He said depending on what specific use is proposed and where, the County may experience procedural obstacles and perhaps formal legal challenges to establishing a managed camp.

Peter Gutowsky, Community Development Director, referred to about 50 acres of land zoned Open Space and Conservation located on the east side of Highway 97.

Commissioner Adair encouraged action, saying this situation has gone on for a long time and only gotten worse with fires burning every day.

Commissioner DeBone questioned why it would be better to use land zoned OS&C than resource land that has never been farmed for profit. He stressed the need to turn the corner on unsanctioned dispersed camping, which is a grave problem on federal land because the two-week stay rule is not enforced.

Commissioner Chang said this year's point in time counts in Bend and Redmond returned lower numbers this year due to the increased provision of shelter and housing.

Commissioner Adair said it would benefit the community to direct dispersed campers to a temporary managed camp that had security and offered resources.

Commissioner DeBone supported collaborating with the City to temporarily consolidate campsites and offer services on County-owned land outside of Bend in the Juniper Ridge area north of Beechcraft Lane.

5. Public Hearing and Consideration of Order 2024-030 approving the Pahlisch Homes annexation

Dave Doyle, County Counsel, said Pahlisch Homes submitted a petition to annex approximately 50 acres into the Bend Park & Recreation District, after which the Assessor’s Office and County Clerk reviewed and certified the petition. The City of Bend has approved the petition, and no objections have been filed on this proposal.

The public hearing was opened at 10:02 am.

Dorinne Tye inquired about the reason for this annexation, asking to know who benefits by it. Commissioner Chang explained that such annexations transfer property into the Bend Park & Recreation District, after which the property owners pay taxes to help fund the capital needs and operations of the district’s parks and facilities.

There being no one else who wished to speak, the public hearing was closed at 10:04 am.

DEBONE: Move approval of Board Order No. 2024-030, approving the annexation of approximately 50 acres into the Bend Park & Recreation District at the request of Pahlisch Homes (Easton annexation)

CHANG: Second

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

6. Newberry Geothermal Project Update

David Stowe from The Ardell Group provided an update on the research conducted by AltaRock Energy of Seattle and its partners to determine the feasibility and viability of enhanced geothermal systems for renewable energy production at the Newberry National Volcanic Monument in the Deschutes National Forest. The purpose of the research is to develop and test geothermal reservoir technology and its potential to generate electricity in areas that have underground heat but little or no natural water.

Noting that a significant amount of data has already been collected at this site since the project was launched in 2012, Stowe said new work scheduled to commence the second week of September will aid in developing advanced modeling scenarios for further research and development.

In response to Commissioner Chang, Stowe agreed to provide a list of the additives being put into the ground along with the water from which energy is extracted after it's geothermally heated.

Discussion ensued regarding other power generation sources and how the cost of these and their known environmental impacts compare with geothermal systems.

7. Grant opportunity to explore the development of a recreational Campground on County-owned property at Fort Thompson Lane

Jen Patterson, Strategic Initiatives Manager, sought Board direction on whether to apply for a County Opportunity Grant from the Oregon State Parks and Recreation Department to develop a Master Conceptual Plan, including a point of access assessment, for a recreational campground located on County-owned property at Fort Thompson Lane. Patterson noted that applications are due on October 1st.

Commissioner DeBone supported conducting a point of access assessment to gain clarity on whether the property could be accessed from Highway 97.

Commissioner Adair said the County could reconsider applying for the grant next year when the access question has been answered.

In response to Commissioner Chang, Patterson said the access issue could be addressed as part of a master plan, and as such be an eligible expenditure for a grant.

Commissioner Chang said by itself, the access analysis might not constitute a successful grant application. He supported pursuing a full master planning process to include an access analysis.

Referring to the 50% required match from grant recipients, Commissioner Adair did not support expending any County funds on this project until the access question is determined. Commissioner DeBone supported a limited County allocation of matching funds to seek a grant to conduct an access analysis, saying the County could submit the completed Camping Feasibility Study as documentation of the process, research and discussion thus far.

Commissioner Chang supported conducting a full transportation analysis which would determine the access issue along with associated information such as the estimated number of vehicle trips expected to be generated by a campsite and other uses at this location.

Commissioner Adair noted the potential significant impacts on Highway 97 and said the County first needs a decision from ODOT as to whether access from Highway 97 would be allowed.

Commissioner Chang moved to authorize an application for a grant to the Oregon State Parks and Recreation Department's County Opportunity Grant Program to fund planning for a new camping and recreational facility for the County-owned property at Fort Thompson Lane. There was no second to the motion.

DEBONE: Move approval of an application for funding for an access point assessment in partnership with the Oregon State Parks and Recreation Department's County Opportunity Grant Program and direct that the Camping Feasibility Study be included as part of the application materials

ADAIR: Second

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

8. Board Order No. 2024-034 authorizing Facilities Director and/or County Administrator approval and signature on budgeted costs for the Courthouse Expansion construction project

County Counsel Dave Doyle reminded that the Board previously approved the guaranteed maximum price of \$36,722,789 for the Courthouse Expansion construction project. At this time, staff seeks approval of an order authorizing the Facilities Director and/or County Administrator to approve and sign for expenditures above their standard authority thresholds so long as the charges are included within the guaranteed maximum price approved by the Board in February.

Lee Randall, Facilities Director, provided a brief update on the status of the construction of the Courthouse expansion project.

Responding to Commissioner Adair, Randall said the project's expected completion date is April or May of 2026.

CHANG: Move approval of Order No. 2024-034 authorizing Facilities Director and/or County Administrator approval and signature on budgeted costs for the Courthouse Expansion construction project

DEBONE: Second

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

A break was announced at 10:54 am. The meeting resumed at 10:59 am.

9. Deliberations: Remand of 710 Properties/Eden Properties Plan Amendment and Zone Change

Haleigh King, Associate Planner, presented a matrix of decisions to guide the Board's deliberations of a remand decision of the Oregon Land Use Board of Appeals regarding a Plan Amendment and Zone Change application proposed by 710 Properties, LLC. The public hearing before the Board was held on July 24th.

King reviewed the process undertaken to this point, including a public hearing before the Board on July 24th. Saying that the open record period closed on August 21st, King noted that a comment received on August 28th cannot be taken into consideration. In accordance with State law, the Board must issue a decision no later than October 24th.

Commissioner DeBone reminded that the Board is not being asked to approve or deny the application, but rather buttress the record with sufficient findings in support of its previous decision.

King noted that the decision matrix summarizes information from the applicant and testimony from other parties on each decision point.

The Board proceeded to consider each decision point, expressed in the form of a question, as follows:

1. Is the subject property suitable for farm use in conjunction with other property?

King explained the purpose of this question is to address the definition of Agricultural Land and Farm Use pursuant to ORS 215.203 and OAR 660-033-0030 which require that "nearby or adjacent land ... shall be examined to the extent that a lot or parcel is either 'suitable for farm use' or 'necessary to permit farm practices to be undertaken on adjacent or nearby lands' outside the lot or parcel."

A majority of the Board was in consensus that, based on the evidence in the record, the subject property is not suitable for farm use in conjunction with other property.

2. Is the subject property suitable for the feeding, breeding, management, and sale of livestock and poultry or the stabling or training of equines for the primary purpose of obtaining a profit in money if feed was imported from off-site?

A majority of the Board was in consensus that the subject property is not suitable for the feeding, breeding, management, and sale of livestock and poultry or the stabling or training of equines for the primary purpose of obtaining a profit in money if feed was imported from off-site.

3. Is the subject property suitable for the construction or maintenance of equipment and facilities used for farm activities even where those farm activities occur on other lands?

King reminded that the suitability test ties back to the potential for profitability.

Commissioner DeBone commented that no one would farm if they were unable to realize a profit.

A majority of the Board was in consensus that the subject property is not suitable for the construction or maintenance of equipment and facilities used for farm activities even where those farm activities occur on other lands.

4. Is retention of the property's agricultural designation necessary to permit farm practices to be undertaken on adjacent or nearby lands?

This question was taken up at the conclusion of the Board's deliberations; see page 10.

5. Is it necessary for the Agricultural Land/EFU designation be retained to permit farm practices to occur on adjoining or nearby agricultural lands due to traffic impacts?

King reminded that the applicant has proposed a potential condition of approval that any future development be limited to a maximum of 71 dwellings.

A majority of the Board was in consensus that it is not necessary for the Agricultural Land/EFU designation be retained to permit farm practices to occur on adjoining or nearby agricultural lands due to traffic impacts.

6. Is it necessary to retain Exclusive Farm Use (EFU) zoning to permit farm practices to be undertaken on adjacent and nearby agricultural lands due to water impacts related to the use of exempt groundwater wells by future owners of lots on the subject property?

Commissioner Chang said the Deschutes Water Basin has experienced a significant decline of groundwater levels. While he acknowledged the primary reason for this is reduced precipitation, he said this is compounded by the extraction of water from the ground. He advised that if each of the 71 proposed homes has its own exempt well, it would be best to meter these to ensure a negligible impact on groundwater levels.

Commissioner Adair responded that this area has the second-highest producing well in Central Oregon at 8,000 gallons per minute. She encouraged the removal of some of the juniper trees on the property and appreciated that the applicant has proposed to restrict the landscaped area of each individual parcel to one-quarter acre.

Commissioner DeBone said while it's acknowledged there will be an impact on groundwater, this area is served by a robust aquifer.

A majority of the Board was in consensus that it is not necessary to retain EFU zoning to permit farm practices to be undertaken on adjacent and nearby agricultural lands due to water impacts related to the use of exempt groundwater wells by future owners of lots on the subject property.

7. Will potential nuisance and trespass impacts associated with the application request prevent the continuation of farm practices on nearby or adjacent land?

A majority of the Board was in consensus that potential nuisance and trespass impacts associated with the application request will not prevent the continuation of farm practices on nearby or adjacent land.

- 8.a. Does the Board concur with the applicant's approach to analyze compliance with DCCP Agricultural Lands Goal 1 as it relates to DCC 18.36.020(C)(2), which requires that "impacts on surrounding land use will be consistent with the specific goal and policies contained within the Comprehensive Plan"?

Surmising that this property was not bought with the intention to use it for agriculture although it was zoned exclusively for farm use, Commissioner Chang said such sales raise the market value of agricultural lands while simultaneously making the use of them for agriculture much more tenuous.

Noting that “open space” is not a land use designation and commenting on the State’s one-size-fits-all land use system, Commissioner DeBone agreed that the land uses surrounding the subject property are not affected in terms of their agricultural value.

A majority of the Board concurred with the applicant’s approach to analyze compliance with DCCP Agricultural Lands Goal 1 as it relates to DCC 18.36.020(C)(2), which requires that “impacts on surrounding land use will be consistent with the specific goal and policies contained within the Comprehensive Plan.”

- 8.b. Considering the proposed conditions of approval agreement, will the impacts of the zone change on surrounding land use be consistent with DCCP Agricultural Lands Goal 1—to “[p]reserve and maintain agricultural lands and the agricultural industry,” considering water, wastewater, and traffic impacts?

Commissioner Adair quoted from the July 22nd statement of conclusion from Brian Rabe, as follows: “The potential for adverse impacts to groundwater quality from septic systems at this site is low ... Use of this site for any profitable commercial farm use, including grazing or a feed lot, is impractical.”

A majority of the Board agreed that, considering the proposed conditions of approval agreement, the impacts of the zone change on surrounding land use will be consistent with DCCP Agricultural Lands Goal 1—to “[p]reserve and maintain agricultural lands and the agricultural industry,” considering water, wastewater, and traffic impacts.

The Board then addressed question 4., as follows:

4. Is retention of the property’s agricultural designation necessary to permit farm practices to be undertaken on adjacent or nearby lands and avoid/prevent impacts to nearby farm lands?

A majority of the Board was in consensus that retention of the property’s agricultural designation is not necessary to permit farm practices to be undertaken on adjacent or nearby lands and avoid/prevent impacts to nearby farm lands.

King said staff will work with the applicant to craft a draft decision for the Board’s review.

DEBONE: Move to close the deliberations on this matter and direct staff to return with a draft decision approving the application for the Board’s

ADAIR: consideration
Second

VOTE: CHANG: No
DEBONE: Yes
ADAIR: Chair votes yes. Motion Carried 2 = 1

OTHER ITEMS:

- Commissioner Chang reported on yesterday's Public Health Advisory Board meeting at which Deschutes County epidemiologist Mathew Christensen shared changes in Oregon's drug overdose and mortality numbers in contrast with national and state statistics. According to Dr. Christensen, overdose visits to the emergency room have declined steadily since August of 2023, and the overdose rate per 100,000 persons in Deschutes County is at less alarming levels than in other Oregon counties. Commissioner Chang suggested that Dr. Christensen be invited to present this information to the full Board.
- Commissioner Adair asked that NeighborImpact update the Board on results of the large investment made in childcare by the County.
- Chris Doty, Road Director, presented a draft letter from the Board to the State's Joint Committee on Transportation regarding the eroding effect of recent inflation hikes on planned capital projects and the need to maintain the 50-30-20 split of State Highway Fund revenue sharing. Doty said members of the Joint Committee will travel to Deschutes County next week to meet with local leaders, at which time he planned to present the letter and address these two major concerns with the Committee members.

CHANG: Move to sign the letter to the Joint Committee on Transportation as drafted

DEBONE: Second

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

Commissioner DeBone said he will also bring up EV vehicle registration fees and bicycle fees.

- Commissioner Adair announced that Robert Townsend, formerly ODOT's Central Oregon Area Manager, is leaving the agency.

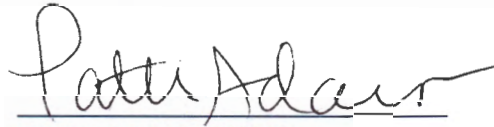
EXECUTIVE SESSION: None

Senior Assistant Legal Counsel Kim Riley announced that the scheduled Executive Session will not take place today.

ADJOURN:

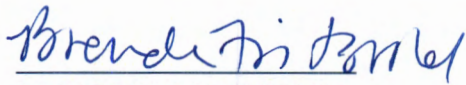
Being no further items to come before the Board, the meeting was adjourned at 12:41 pm.

DATED this 9th day of Oct. 2024 for the Deschutes County Board of Commissioners.



PATTI ADAIR, CHAIR

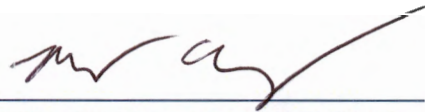
ATTEST:



RECORDING SECRETARY



ANTHONY DEBONE, VICE CHAIR



PHIL CHANG, COMMISSIONER