



## BOARD OF COMMISSIONERS

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

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# BOCC MEETING MINUTES

1:00 PM

**MONDAY July 24, 2023**

Allen Room  
Live Streamed Video

Present were Commissioners Anthony DeBone, Patti Adair and Phil Chang. Also present were Deputy County Administrator Erik Kropp; Assistant County 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 website [www.deschutes.org/meetings](http://www.deschutes.org/meetings).

**CALL TO ORDER:** Chair DeBone called the meeting to order at 1:00 p.m.

**CITIZEN INPUT:** None

### **AGENDA ITEMS:**

*Due to some technical difficulties, Agenda Item #2 was heard before Agenda Item #1.*

#### **2. Emergency Management Performance Grant Application**

Sgt. Nathan Garibay explained the request of the Deschutes County Sheriff's Office to apply for an Emergency Management Performance Grant from the Oregon Office of Emergency Management for planning, coordination and oversight of the County's emergency management program. Approximately \$92,616 is expected to be awarded; the required matching funds will be provided from the Sheriff's Office budget and other local, state and federal funds.

**ADAIR:** Move to authorize the Deschutes County Sheriff's Office to submit an

application for an Emergency Management Performance Grant to support Deschutes County's emergency management program  
CHANG: Second

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

## 1. Deschutes County Medical Examiner Update

Dr. Anne Onishi presented an update on the medical examiner services provided to the County by herself and Maureen McCaffrey as independent contractors, saying that the volume of cases handled has increased tremendously in the recent past in part because the State's Medical Examiner's Office has ceased to perform certain functions. Other factors contributing to the growth in case volume include the aging population and the increasing number of drug-related deaths. Onishi explained that a team of eight to ten nurse investigators cover Deschutes as well as Crook County and described the actions undertaken in a death investigation, which take an average of four to six hours per case to process.

Continuing, Onishi said the office investigates between 600 and 700 cases each year, and an additional 1000-1200 calls are received regarding other deaths which are not investigated. She spoke to the need for more persons who are certified by the American Board of Medicolegal Death Investigators and said it is necessary to have a full-time office manager to handle administrative duties. Other expenses are incurred to compensate the nurse investigators, including their travel costs and cell phones.

Commissioner Chang asked about the cost of bringing this function in-house. Onishi offered to put together an in-house staffing model for the County's consideration.

Responding to Commissioner DeBone, Onishi said the office is in the process of relocating and would prefer to have office space in Bend of approximately 200 to 300 square feet in size.

Deputy County Administrator Erik Kropp acknowledged Dr. Onishi's request to adjust the services contract to cover the following increases: contracted staff expenses (\$18,000), administrative expenses (\$12,000), travel reimbursement (\$3,500) and education and training (\$2,500), and to raise the medical investigation fee from \$150 to \$200 per case. In FY 2023, the maximum compensation under the Medical Examiner contract, including allowable reimbursements, was \$365,000.

Commissioner Chang said the County should commit to exploring the external vs. internal structure question and also identify alternate office space opportunities as described by Dr. Onishi.

### **3. Senate Bills 391 and 644 Work Session – Rural Accessory Dwelling Unit (ADU) Legislative Amendments**

Kyle Collins provided an overview of the proposed amendments to Deschutes County Code to implement local provisions for accessory dwelling units (ADUs) following the recent adoption of State legislation to allow these in rural areas. Collins noted public comments received on this issue and recommendations to the Board from the Planning Commission.

The Commissioners posed questions in advance of the public hearing to be held on July 26<sup>th</sup>, including on the status of private wells in the south county.

In response to Commissioner Chang, Collins said as currently drafted, the local regulations would not prohibit an accessory dwelling unit in addition to accessory buildings that are already allowed in association with a primary dwelling (a detached garage, for example), subject to lot coverage conditions, required building separations, and other applicable restrictions. Collins confirmed there is no limit on the number of accessory buildings that can be built on a property so long as all applicable conditions are met.

Referring to the draft economic, social, environmental, and energy (ESEE) analysis, Commissioner DeBone commented on proposed language regarding possible social consequences of allowing ADUs. He noted that in rural areas, these are not likely to be constructed near parks.

Responding to Commissioner Chang, Collins said the Planning Commission recommended that if an ADU is built, neither the primary residence nor the ADU be allowed to be used as a short-term rental. Commissioner DeBone questioned if the prohibition on using the primary residence as a short-term rental would constitute removing an existing right. Collins confirmed that if the recommendation of the Planning Commission is approved, anyone wanting to build an ADU would have to agree to not use their primary residence as a short-term rental.

### **4. Greater Sage-Grouse – 2023 Mapping Update**

Nicole Mardell, Senior Planner, said the Oregon Department of Fish and Wildlife (ODFW) is working to update the State's Greater Sage-Grouse Conservation Assessment and Strategy which was adopted following a determination in 2010 that Sage-Grouse are a candidate species for the Endangered Species Act. Mardell

reviewed actions taken in 2015, including the County's establishment of a Greater Sage-Grouse Combining Zone, and distributed a map showing the existing Sage Grouse habitat area and the revised habitat area as drafted by ODFW. ODFW is accepting comments on the updated map through September 22, 2023; staff anticipates County review of associated combining zone amendments in 2024-2025. Mardell concluded that the County cannot opt out or alter the State's final regulations but rather will be required to implement them once those are approved.

In response to Commissioner Adair, Mardell said the Roth ranch property is not expected to be affected by the map amendments as it lies within the low-density area.

#### **5. Treasury Report for June 2023**

Bill Kuhn, County Treasurer, provided the Treasury Report for June 2023.

#### **6. Finance Report for June 2023 – Preliminary**

Robert Tintle, Chief Financial Officer, presented the Finance Report for June 2023.

#### **OTHER ITEMS:**

- Anthony Raguine, Principal Planner, reported that last week, the Hearings Officer issued a decision on an initiation of use application associated with a marijuana production facility in the 26200 block of Willard Road. Raguine explained that 80% of the expenditures made by the property owner in association with the desired land use were made before the land use was approved.

Saying that initiation of use is governed by Deschutes County Code (DCC) 22.36.020, Raguine described the criteria by which development action is determined to be initiated. While the applicant submitted an application about four months before the decision, he did not wait to receive approval before beginning work on the project. The applicant testified that in initiating the work, he had relied on information conveyed by staff at the pre-application stage.

Continuing, Raguine described possible negative consequences of allowing development actions in advance of land use approvals. He said that the process of seeking land use actions allows for public participation, but this could be circumvented or rendered moot if land use action is allowed to happen before approval is obtained. Additionally, the County could see an increase in Code violation cases, and/or property owners could expend

significant resources on a desired use, only for the project to be denied.

Raguine said the Board has discretion to “call up” an administrative or Hearings Officer decision. However, this particular appeal has timing limitations and the time frame for the Board to hear this particular appeal is very limited. He added that the same applicant has a second pending initiation of use case which involves an adjacent property and that matter is pending a decision before the same Hearings Officer. Staff anticipates that the same issue will arise on the second appeal and that appeal would not have the same timing constraints.

Commissioner DeBone noted that the applicant risked the denial of the land use application. Raguine said staff is concerned that allowing development action before land use approval could set an undesirable precedent.

Responding to Commissioner Chang, Raguine said while decisions of the Hearings Examiner do not create precedence for the Board or the County, these decisions are public information and it is common for them to be referenced by land use attorneys in subsequent cases.

Commissioner Chang asked what the cure is for a situation when development action proceeds a land use approval. Raguine said although the land use approval is the cure, the concern is that applicants will start work before that is obtained.

The consensus was to not call up the first appeal due to timing constraints; rather, the Commission will call up the second appeal once a decision is issued if the same issue is presented as outlined in the first appeal.

- Deputy County Administrator Erik Kropp distributed a draft letter from the Board to Governor Kotek responding to the governor’s request for additional information about the County’s desire for flexibility to site managed homeless camps on rural lands outside of Urban Growth Boundaries (UGBs). Kropp said the draft letter has been reviewed by the Coordinated Homeless Response Office and COIC.

Commissioner Adair said the letter should note that the County donated land in Redmond valued at \$399,550 for the Oasis Village project and also include a reference to the County’s contribution of \$2 million to the Cleveland Commons permanent supportive housing project.

Commissioner Chang relayed his conversation with Governor Kotek on this subject, saying the governor agrees with the need to provide a continuum of

care and recognizes that funding for ongoing shelter operations is a challenge. He said he shared with the governor the unique advantages of using the Gales property for a managed camp and also had explained the difficulty experienced in efforts to establish outdoor shelter in Bend over the past two years.

The Commissioners requested minor changes to the draft letter.

CHANG: Move approval of Board signature of a letter to Governor Tina Kotek with revisions as discussed

ADAIR: Second

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

- Commissioner Adair reported that Chief United States District Court Judge Marco Hernandez is interested in the possibility of using part of the County's courthouse expansion for operations of the 9th Circuit Court.
- Commissioner DeBone attended the FairWell Festival pre-event open house and the Chamber breakfast on Friday morning in La Pine.
- Commissioner Chang attended the Fairwell Festival on Saturday and Sunday.
- Commissioner Adair attended Coffee Clatter in Redmond on Friday and a J Bar J event on Saturday.
- Commissioner Chang asked for information on the Fair's proceeds from the FairWell Festival.

**EXECUTIVE SESSION:** None

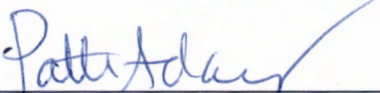
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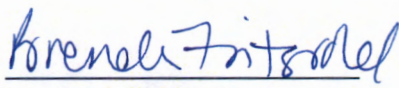
Being no further items to come before the Board, the meeting was adjourned at 4:08 p.m.

DATED this 30<sup>th</sup> Day of August 2023 for the Deschutes County Board of Commissioners.

  
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**ANTHONY DEBONE, CHAIR**

**ATTEST:**

  
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**PATTI ADAIR, VICE CHAIR**

  
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**RECORDING SECRETARY**

  
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**PHIL CHANG, COMMISSIONER**