



## BOARD OF COMMISSIONERS

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

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# BOCC MEETING MINUTES

9:00 AM

**WEDNESDAY August 14, 2024**

Barnes Sawyer Rooms  
Live Streamed Video

Present were Commissioners Anthony DeBone and Phil Chang. Also present were County Administrator Nick Lelack, County Counsel David Doyle 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:** Vice Chair DeBone called the meeting to order at 9:00 a.m. and noted the excused absence of Commissioner Adair.

### PLEDGE OF ALLEGIANCE

### CITIZEN INPUT:

- Ashley (no last name provided) expressed concern about the consideration of property owned by the City of Bend for a managed homeless camp. While she agreed that such camps are needed, she was concerned about potential environmental impacts if a wildfire were to result in an industrial accident at the Soterra chemical plant.
- Becca (no last name given) asked to know about any discussion regarding the possible establishment of a managed homeless camp near La Pine as well as any discussions with the Bureau of Land Management or other agencies regarding the enforcement of camping regulations on federally-owned land in that area.

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

1. Approval of a Notice of Intent to Award a contract for the paving of Deschutes Market Rd / Tumalo Rd: 19th St to Tumalo PI Project
2. Approval of an amendment extending the services contract with Clean Earth Environmental Solutions for the Household Hazardous Waste program
3. Approval of minutes of the BOCC June 26 and July 1, 2024 meetings

CHANG: Move approval of the Consent Agenda as presented  
DEBONE: Second

VOTE: CHANG: Yes  
DEBONE: Acting Chair votes yes. Motion Carried 2 - 0

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**ACTION ITEMS:**

*The Board convened as the governing body of the Deschutes County 9-1-1 District.*

**4. Amendment to Trunked Radio Use Agreement and Collocation Authorization with the Oregon Department of Transportation for Deschutes County 9-1-1**

Sara Crosswhite, 9-1-1 Director, said the agreement between the County and the Oregon Department of Transportation for trunked radio use and collocation of facilities previously obligated the County to pay user fees of \$212,699 per year until June 30, 2031. The proposed amendment would reduce DC911's annual user fee to \$178,058, with a 3% yearly escalator.

Commissioner DeBone said he attended the State Interoperability Executive Council meeting yesterday where this proposed change to the agreement was discussed. He agreed this collaboration has been valuable to both the County and the State.

In response to Commissioner Chang, Crosswhite said 9-1-1 has facilities on several towers, all of which are shared sites. Some of these sites are shared with the State and some with the City of Bend.

CHANG: Move approval of f Document No. 2024-685, an amendment to the agreement with ODOT for continued partnership on the State-wide

DEBONE: radio system  
Second

VOTE: CHANG: Yes  
DEBONE: Acting Chair votes yes. Motion Carried 2 - 0

*The Board reconvened as the governing body of Deschutes County.*

## **5. Oregon National Flood Insurance Program / Endangered Species Act Implementation Plan / Legislative Consideration**

Audrey Stuart, Associate Planner, explained that the National Flood Insurance Program (NFIP), which is administered by the Federal Emergency Management Administration (FEMA), establishes minimum standards for floodplain management across the country and allows property owners in participating communities to qualify for certain types of flood insurance. A lawsuit brought against FEMA claimed the NFIP negatively affects endangered species and their habitat by allowing development within the floodplain. As part of the lawsuit's settlement, FEMA consulted with the National Marine Fisheries Service which issued a biological opinion to the effect that FEMA's implementation of the NFIP in Oregon is causing jeopardy to steelhead salmon and orcas, among other species, as well as adverse modification of critical habitat for certain affected species.

Will Groves, Planning Manager, said as a result of the lawsuit, settlement, and biological opinion, some of the standards issued by FEMA regarding floodplain development must now be overhauled. Noting that cities and counties are required to adhere to these standards to be eligible for the NFIP, he referred to a map showing affected areas in Deschutes County. As shown in the presented map, only a portion of the floodplain in Deschutes County is impacted by this biological opinion.

Responding to Commissioner Chang, Groves said some irrigation sites feed into the identified watersheds and can be impacted by infiltration, sedimentation, changes in temperature, and other factors. FEMA is obligated to protect all designated floodplain, and Deschutes County must apply FEMA's regulations to these areas.

In response to Commissioner Chang, Groves said if property is located in a floodplain and purchased with a mortgage, most purchasers are required to obtain flood insurance.

Groves said all impacted jurisdictions are required to act by December 1, 2024 and select a pre-implementation measure; however, because FEMA has not yet released its model code there is uncertainty regarding when jurisdictions will be able to adopt and implement these measures. Noting that the effective date for the model ordinance is next July, Groves said it is not clear whether any technical assistance will be available to local governments to help implement these changes. He said these changes will necessarily involve addressing Measure 49 and takings concerns as well as clear and objective standards requirements.

Groves stressed that the failure to adhere to FEMA's regulations could result in the suspension of floodplain insurance. He proposed considering lobbying efforts in 2025 to ask that the Oregon Legislature clarify that federal requirements are not subject to the clear and objective standards for housing development per ORS 197A.400.

Responding to Commissioner DeBone, Groves said FEMA is working with the State's Department of Land Conservation and Development on the model ordinance. Groves added that Deschutes County has its own customized floodplain ordinance, but cannot yet know how this may need to be changed.

Saying that the State of Washington has already been through this, Commissioner Chang said it's likely that Oregon's regulations will be very similar to Washington's. He spoke to the changing climate, noting that much more precipitation is falling as rain rather than snow, and said because of this, Deschutes County's floodplains are larger than FEMA has previously recognized. He summarized FEMA's position to be that the floodplains must be mapped larger than they currently are, and care must be taken that development in these areas does not exacerbate flooding or harm the habitat of endangered species. Because he viewed the changes as appropriate if applied well and expected that the amount of land in Deschutes County affected by this process will be very small, he was somewhat reluctant to allocate lobbying resources to this matter.

Groves allowed that over the last decade, fewer than ten permits in Deschutes County have been issued for floodplain development in the impacted area. The concern is that allowing certain projects to be evaluated under subjective standards would require the waiver of any and all clear and objective standards, and thus preclude the enforcement of the NFIP. Groves emphasized the need to be clear about the obligations imposed on the County via federal preemption, particularly with regard to how these tie into or affect the clear and objective standards required by the State.

Discussion ensued regarding the upcoming legislative session and the difficulty in applying clear and objective development standards in the absence of clarity.

Commissioner DeBone supported remaining updated on the progress and content of the model ordinance and taking a legislative position on this matter.

Nick Lelack, County Administrator, said approximately 31 of Oregon's 36 counties are expected to be affected. Although he appreciated that DLCD has asked that these concerns be amplified to FEMA, he noted a possible opportunity in October to express the need for DLCD's help in crafting an Oregon model ordinance which would take the clear and objective standards requirement into account.

In response to Commissioner Chang, Groves said staff is working with FEMA to produce a non-regulatory map for the Tumalo area to reflect winter flow rates without, however, updating the mapped boundary of the Flood Plain Zone.

## **6. Continued Deliberations – RVs as Rental Dwellings**

Tanya Saltzman, Senior Planner, reviewed the background of the Board's consideration to allow recreational vehicles (RVs) as rental dwellings under Senate Bill 1013. Referring to concerns raised by fire districts regarding how to pay for increased service demands that could result from allowing this use, she sought direction on whether the Board wishes to re-open the record on this matter to permit the submission of additional comments. Saltzman added that she will attend a meeting of the Central Oregon Fire Chiefs later today and offered to share relevant information with that group.

Commissioner DeBone supported reopening the record to gather more input as described. He also supported conducting outreach to fire protection districts as appropriate.

Noting the Board had previously expressed interest in hearing what other counties are or may be doing with respect to the State's authorization to allow RVs as rental dwellings, Saltzman said Clackamas County has recently adopted an ordinance allowing this use. That ordinance is scheduled to take effect next month.

Adding that the record in this matter had originally closed on May 29<sup>th</sup>, Saltzman reviewed options for the Board's consideration.

Commissioner Chang support reopening the record to allow sufficient time for fire districts to provide input to the Board.

CHANG: Move approval of Board Order No. 2024-029, reopening the record for File No. 247-23-000700-TA as amended to accept new testimony until 4:00 pm on November 1, 2024

DEBONE: Second

VOTE: CHANG: Yes  
DEBONE: Acting Chair votes yes. Motion Carried 2 - 0

Commissioner Chang was interested to hear how the regulations developed by Clackamas County are the same or different from the ones considered by Deschutes County.

## 7. Department Performance Measures Updates for FY '24

Jen Patterson, Strategic Initiatives Manager, said five departments were selected to provide updates on progress made during FY '24 Q4 on the selected performance measure of "Service Delivery."

Chris Perry, 9-1-1 Operations Manager, presented on 9-1-1's performance measure to continue to meet or exceed the National Emergency Number Association (NENA) standard for call answering times. The standard established by NENA is that at least 90% of calls during busy times be answered in ten seconds or less; DC911 exceeded this goal by answering 97.35% of calls within ten seconds.

Steve Dennison, County Clerk, reported on the selected performance measure relating to the staff cost of tallying ballots for countywide elections, saying the target is \$419 per 1,000 ballots and the County's cost is \$328.

Responding to Commissioner DeBone, Dennison said the State pays for the return postage of all ballots mailed to the Clerk's Office.

Peter Gutowsky, Community Development Director, reported on six selected performance measures:

1. Achieve 8-12 inspection stops per day. The target is a minimum of 8.0 and the department average during the quarter was 8.8.
2. Achieve 90-100% of pre-cover inspections completed the same day as requested. The target is at least 90% and the number completed the same day during the quarter was 93.35%.
3. Achieve an average turnaround time on building plan reviews of 8-10 days. The target is a maximum of 10 days; the average during the quarter was 17.57 days.
4. Achieve the issuance of onsite septic system permits within 12 days of completed application. The target is 12 days; the average achieved during the quarter was 19.65 days.

5. Sustain the issuance of land use administrative decisions with notice within 45 days of completed application. The target is 45 days; the average achieved during the quarter was 56.2 days.
6. Sustain the issuance of land use administrative decisions without notice within 21 days of completed application. The target was 21 days; the average achieved during the quarter was 24.3 days.

Jason Bavuso, Human Resources Manager, reported on the performance measure to achieve 100% of recruitments opening within 21 days of receipt of a recruitment authorization. The target was 21 days; 98% of recruitments in the quarter were opened within 5.97 days of a recruitment authorization.

Zach Neemann, Information Security Manager, presented on the performance measure to possess a minimum level IG2 for all 18 CIS Critical Security Controls, saying that with his hire, IT has created a framework for Deschutes County that aligns with ISO, NIST, and CIS standards and progress is being made to meet controls within the framework.

Commissioner DeBone referred to a forthcoming after-action report to be issued by Curry County regarding the cybersecurity attack it experienced in 2023.

Nick Lelack, County Administrator, recognized Human Resources and Information Technology, saying that as these are internal service departments, the public does not normally see their work and everything they do to support the rest of the organization.

## **8. Acceptance of a Community Capacity Building Grant from PacificSource**

Janice Garceau, Health Services Director, reminded that this past May, the Board authorized Deschutes County Health Services (DCHS) to apply for Oregon Health Authority's Health-Related Social Needs (HRSN) grant in the amount of \$686,947. DCHS has been awarded \$475,210 and now seeks approval to accept this funding, which will be used to collect and analyze data to understand the community's HRSN needs and establish pathways to refer individuals and families to community-based organizations identified as able to meet those needs.

In response to Commissioner DeBone, Kacy Burgess, Clinical Information System Administrator, said the grant will benefit high-risk Medicaid-enrolled persons by utilizing a network of providers to stabilize their situations and achieve better outcomes for their medical and health needs.

CHANG: Move approval of Chair signature of Document No. 2024-702

DEBONE: accepting a Community Capacity Building Grant from PacificSource  
Second

VOTE: CHANG: Yes  
DEBONE: Acting Chair votes yes. Motion Carried 2 - 0

**OTHER ITEMS:**

- Jen Patterson, Strategic Initiatives Manager, reviewed a draft letter commenting on the State’s wildfire hazard map for the Board’s consideration, noting it was based on the letter submitted by Craig Letz of Tamarack Wildfire Consulting.

Discussion ensued regarding desired changes to the draft letter to express appreciation for the efforts of the State to protect lives and property.

Commissioner Chang noted his agreement with Letz’s suggestion that the Wildland-Urban Interface (WUI) map may be a better model than the wildfire hazard map.

Commissioner DeBone suggested communicating the County’s ongoing efforts via Project Wildfire and significant collaboration with other groups to support best practices and educate property owners on the importance of creating defensible space and reducing fire fuels, given that the risk of wildfire in Deschutes County is high.

Kevin Moriarity, County Forester, agreed that the letter should acknowledge the efforts made to prioritize areas for treatment, and further concurred that using the WUI map would make sense for Deschutes County, where privately-owned properties are surrounded by wildland fire fuels.

Commissioner Chang explained that the hazard map is not meant to be punitive but rather is intended to drive the allocation of resources to assist property owners in establishing defensible space, which helps to protect individual properties as well as neighboring properties.

Commissioners Chang and DeBone were in consensus that the letter should make clear that more high hazard areas exist in Deschutes County than are shown on the draft map.

- Commissioner DeBone chaired yesterday’s meeting of the State Interoperability Executive Council which addresses such issues as cybersecurity for local governments.
- Commissioner DeBone relayed efforts to determine how to fund medical examiner services across the state, noting he has talked with Major Alex Gardner, director of



the Oregon State Police Forensic Science & Pathology Bureau, and has scheduled discussions with others on this subject.

- Commissioner DeBone reported on a legislative tour earlier this week with representatives from several agencies including DHS, CORE3, BLM and ODF.
- Commissioner Chang attended a session of representatives from area irrigation districts where the topics of current storage conditions in the basin and the monitoring of river and creek flows were discussed.
- Commissioner Chang reported that he convened a meeting between Senator Golden and representatives of the insurance industry regarding increasing property insurance costs and ways to incentivize property owners to create defensible space.
- Commissioner Chang attended yesterday's Sunriver-La Pine Economic Development Board meeting where the subjects of speculative ("spec") buildings and the industrial park were taken up.

**EXECUTIVE SESSION:** None

**ADJOURN:**

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

DATED this 25<sup>th</sup> day of Sept. 2024 for the Deschutes County Board of Commissioners.

  
PATTI ADAIR, CHAIR

**ATTEST:**

  
RECORDING SECRETARY

  
ANTHONY DEBONE, VICE CHAIR

  
PHIL CHANG, COMMISSIONER