



BOARD OF COMMISSIONERS

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

FOR RECORDING STAMP ONLY

BOCC MEETING MINUTES

9:00 AM

WEDNESDAY July 26 2023

Barnes Sawyer Rooms
Live Streamed Video

Present were Commissioners Tony DeBone, Patti Adair and Phil Chang. Also present were Nick Lelack, 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 9:00 a.m.

PLEDGE OF ALLEGIANCE

CITIZEN INPUT:

- Doug Hoschek stated that after removing lodgepole pine trees in Sunriver which were highly susceptible to wildfire, he was fined \$17,000 because evidence of the permission he had been granted was lost. He added that FEMA requires a 30-foot buffer of flammable material from structures to maintain homeowners insurance.
- Ron Boozell encouraged the adoption of enforceable Code regulations to address dangerous dogs and suggested a public information campaign on dog licensing and leashing. He said meth culture is at the center of the homeless population and urged that resources be directed to addressing this situation.
- Carl Shoemaker referred to people who harbored Jews in Nazi Germany and others who assisted enslaved persons to escape via the underground railroad to illustrate that sometimes, laws must be broken.

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

1. Consideration of Board Signature on letter appointing Duncan Atwood for service on the Deschutes County Four Rivers Vector Control District Board.
2. Consideration of Board Signature on letter thanking Cindy Van Patten for her service on the Four Rivers Vector Control District Board
3. Consideration of Board Signature on letter appointing Matt Muchna for service on the Deschutes County Bicycle-Pedestrian Advisory Committee.
4. Consideration of Board Signature on letter thanking Kenneth Piarulli for service on the Deschutes County Bicycle-Pedestrian Advisory Committee.
5. Approval of the minutes of the June 14, 2023 BOCC meeting

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

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

ACTION ITEMS:

6. Public Hearing on Senate Bills 391 and 644 – Rural Accessory Dwelling Unit Legislative Amendments

Kyle Collins, Associate Planner, presented a staff report on the County-initiated effort to adopt local provisions for rural accessory dwelling units (ADUs), noting the first required public hearing was held before the Planning Commission on September 22, 2022. Collins provided an overview of recent State legislative changes, the proposed amendments to Deschutes County Code, public comments received to date, and recommendations from the Planning Commission.

Collins said while some State-imposed standards and restrictions relevant to rural ADUs cannot be amended by counties--including those related to minimum lot size, sanitation, square footage and water supply—local flexibility remains with respect to interpreting the term “useable floor area” and how to measure the 100-foot siting distance. Collins noted that the proposed amendments to

DCC include language to clarify that an ADU may be constructed simultaneously with a primary dwelling, and specify that a previously constructed primary dwelling may be converted to a lawful ADU, provided all relevant criteria are met.

Collins explained that in the interest of protecting vulnerable groundwater, the Onsite Wastewater Division recommends that the minimum lot size for rural ADUs be five acres in southern Deschutes County. The Division also recommends limiting all properties constructed with ADUs from future residential development—including medical hardship dwellings, temporary dwellings within recreational vehicles, or similar uses.

Collins concluded that because the Oregon Department of Forestry has not yet released a Statewide Wildfire Hazard map, it is not yet known which properties will be classified as high hazards and subject to additional development regulations due to wildfire risk.

Commissioner Chang noted that property owners can already construct accessory buildings which would have the same impact comparatively as ADUs on wildlife habitat fragmentation, and accessory buildings are not prohibited in the wildlife combining zone. He asked if property owners would be able to relate a new ADU to other accessory buildings, even if detached from them. Responding that this would be up to the Board's discretion to allow or prohibit, Collins added that DCC requires that accessory buildings be subordinate to the residential use of the property.

The public hearing was opened at 9:58 am.

- Tyler Neese, Government Affairs Director for the Central Oregon Association of Realtors, reiterated COAR's support for permitting ADUs in rural Deschutes County.
- Katie Cramer said after buying a tiny house, she was told it could not be allowed on a single family residential property even with the permission of the property owner.

Noting that the Legislature recently approved a bill allowing rural property owners to host an RV on their property for residential purposes and that staff is working to draft local rules to authorize this use in Deschutes County, Commissioner Chang said it may be possible to classify a mobile tiny house as an RV.

- Nancy Grulke said the use of ADUs is different from sheds and other accessory buildings because the presence of human life affects wildlife in

a different way. She said the draft wildfire hazard map is highly flawed and has not been properly vetted.

Commissioner DeBone said due to hot, dry and windy conditions, all of Deschutes County is a high wildfire risk area.

In response to Commissioner Chang, Collins said converting an existing non-residential structure into an ADU would be allowed if all necessary standards were met. Also, an existing ADU could be permitted under the same conditions.

- Nona (no last name given) shared her interest in converting an existing structure into an ADU and asked about obtaining a variance for locating an ADU beyond 100 feet of the primary residence.

Commissioner Chang explained that the State imposes the 100-foot distance limitation and therefore a variance from this standard is not possible.

- Clifford Evelyn asked how the County will hold people accountable for having unpermitted ADUs.

The public hearing was closed at 10:17 am.

Chair DeBone noted the consensus of the Board to conduct deliberations on this issue on Wednesday, August 9th and leave the written record open until 9 am on that date.

7. Deliberations and possible first reading of an ordinance amending Deschutes County Code relative to camping and other sleeping associated activity on public property

County Counsel Dave Doyle summarized that in response to the proposal from the Deschutes County Sheriff's Office (DCSO) to add new subsections to Deschutes County Code Title 11.04 regarding camping on public property, Legal has drafted code revisions amending Title 11.04 of Deschutes County Code relative to camping and other sleeping-associated activity on public property for the Board's consideration.

Commissioner DeBone supported the proposed text revisions as drafted. With respect to federally-owned land, he supported the federal government seeking assistance from DCSO to enforce desired regulations.

Commissioner Chang also supported the draft text revisions and stated he was not in favor of the original proposal brought forward by DCSO. While he agreed

that unsanctioned camping which occurs for longer than 14 days on federal land needs to be addressed, he was concerned about exacerbating the situation and said efforts must be focused on offering places with facilities and wraparound services/pathways out of homelessness—only then would it be acceptable to utilize a law enforcement approach to unauthorized camping.

Commissioner Adair said the text revisions put forth by Legal do not seem adequate but are the best that can be enacted at this time. She spoke to ongoing dangerous activity at China Hat, said the Forest Service needs to be aware what is happening, and believed that Sheriff Nelson is negotiating with the federal government to be able to enforce camping restrictions on federal lands.

Commissioner DeBone clarified that the proposed text revisions applies only to County-owned and -controlled property. He hoped that Senator Wyden will help facilitate a partnership with the federal government on this issue.

Commissioner Chang said clearing people from places where they are not authorized to be without offering relocation options is not effective in reducing homelessness.

County Counsel Doyle emphasized that the proposed restrictions could not be enforced unless and until alternate shelter site(s) that people could move to are established. County Administrator Nick Lelack said if the Board accepts the text revisions and adopts the ordinance, staff will work to identify/develop alternate shelter sites to enable enforcement.

ADAIR: Move approval of first reading of Ordinance No. 2013-013 amending Title 11 .04, Public Use, of the Deschutes County Code by title only
CHANG: Second

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

Chair DeBone read the title of the ordinance into the record.

8. Amendment to the Intergovernmental Agreement with the Oregon Department of Transportation for the US97: Lower Bridge: Way-NW 10th Street project

Chris Doty, Road Department Director, explained that the amendment acknowledges the County's additional financial contribution of \$1,493,000 to ODOT, \$1,300,000 of which is for work on the Terrebonne sanitary sewer

component of this project and \$193,000 of which is for additional paving on Old Bend Redmond Highway as part of the US20: Tumalo to Cooley Road project. The amendment will also change the timing of the County's remaining payment to ODOT to coincide with completion of the preliminary engineering phase which is anticipated in late August 2023.

CHANG: Move approval of Board signature of Document No. 2023-724, Amendment No. 1 to the Intergovernmental Agreement with the Oregon Department of Transportation for the US97: Lower Bridge Way-NW 10th Street Project

ADAIR: Second

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

9. COIC Grant Application Request for Broadband Action Team Funding

Tania Mahood, IT Director, presented a request for authorization to apply for a State grant to continue the Deschutes County Broadband Action Team (BAT), which has been working to develop a Strategic Broadband Needs Assessment and Action Plan since last year. This effort is being coordinated and overseen by COIC.

Scott Aycock, COIC Community and Economic Development Director, said BAT's membership includes representatives from Deschutes County, COIC, EDCO, Business Oregon, utility and internet service providers, Chambers of Commerce, education partners, health partners, and cities.

Shelby Knight, COIC Resilience Planner, said areas in Deschutes County with insufficient or unaffordable high speed internet service include north of Sisters, south of La Pine, Terrebonne, and various remote rural locations.

Aycock said if the Board authorizes COIC to apply for State funds on the County's behalf to continue these planning efforts, another question is whether COIC should take a regional approach to the grant application in coordination with Crook and Jefferson counties.

Seth Thompson, project coordinator for Business Oregon, explained that those who don't have access to a high speed internet connection cannot take classes remotely or receive medical care via telehealth appointments. Thompson noted that the capability to do certain things online can be especially important to persons who have mobility issues or lack transportation options.

Aycock added that federal funds which will be distributed via the Rural Digital Opportunity Fund will leverage private investment in the extension of high speed internet to unserved and underserved communities. He confirmed that BAT's final report will be brought to the Board for its review and discussion.

CHANG: Move to approve COIC applying for State funds for the Broadband Action Team on the County's behalf

ADAIR: Second

VOTE: ADAIR: Yes

CHANG: Yes

DEBONE: Chair votes yes. Motion Carried

Additionally, the Board was in consensus to support a regional approach to the application should partners at Jefferson, Crook and/or Klamath counties agree.

10. Deliberations: Destination Resort Text Amendments

Tarik Rawlings, Senior Transportation Planner, reviewed the background of the proposed text amendments to Deschutes County's Destination Resort (DR) Combining Zone which were brought forward to align the County's rules with State regulations which limit residential uses at any new destination resort within 24 air miles of an urban growth boundary population of at least 100,000 to those necessary for staff and management.

Rawlings said two main issues are before the Board at this time, the first of which is to determine whether the subject application requires a Map/Plan Amendment to lawfully address ORS 197.455.

In response to Commissioner DeBone, Rawlings said the Planning Commission did not consider this question, which is being addressed due to an assertion that a resort overlay mapping amendment is required. Rawlings added that County Counsel has verified that the proposed text amendment can be approved and take effect without changing the resort overlay map.

Commissioner Chang said it is clear that the County is not revising the resort overlay map, and in fact, destination resorts will continue to be allowed where they are currently.

A majority of the Board was in consensus that the subject application does not require a Map/Plan Amendment to comply with ORS 197.455.

Commissioner DeBone stated that he did not support the text amendment. Commissioner Chang said the text amendment will not prohibit destination resorts, which will continue to be allowed absent non-staff residences.

Continuing, Rawlings said the second decision before the Board is whether to modify the proposed text amendment to include language responsive to economic concerns from representatives of destination resorts. Commissioner Adair noted that four options have been proposed for the Board's consideration.

Commissioner Chang said while none of these revisions are necessary as the proposed text amendment would apply only to new resorts, he was comfortable with stating this restriction explicitly if desired.

Commissioner DeBone said the resort overlay map identifies properties which are eligible for development as destination resorts. He said the County is not acting contrary to state law by following the required procedures for this legislative matter. He viewed the proposed text amendments as a shortcut to preventing future opportunities and thus did not support them.

Commissioner Chang said Deschutes County is not economically blighted, and the developed resorts have had their intended economic effects.

Commissioner DeBone moved to deny approval of file no. 247-22-000835-TA. The motion died for lack of a second.

CHANG: Move approval of file no. 247-22- 000835-TA relating to proposed text amendments for destination resorts, as modified to include language requested by Caldera Springs Real Estate clarifying that the restriction on residential uses shall apply only to newly proposed resorts seeking Conceptual Master Plan approval under DCC 18.113.050 or expansion proposals of existing developments under DCC 18.113.025

ADAIR: Second

VOTE: ADAIR: Yes

CHANG: Yes

DEBONE: Chair votes no. Motion Carried 2 - 1

Rawlings said staff will return on August 9th for first reading of an ordinance to implement the amendments.

11. 10-year Ground Lease with City of Redmond

Kristie Bollinger, Property Manager, introduced the proposed lease with the City of Redmond for 12 acres at 1002 NE 27th Street in Redmond to be used to address homelessness.

Cat Zwicker, Redmond City Councilor, said two of the acres will be used to develop the Oasis Village project and the remainder will be utilized for a safe parking program. She asked that language in the lease which refers to a potential transfer of all or any part of the site be removed as the partnership which will be developed for the safe parking program has not yet been identified.

ADAIR: Move approval of Board signature of Document No. 2023-636, a ground lease with the City of Redmond for third-party development of Oasis Village and like projects to support homeless persons, as amended to remove section B1.2 on page 2 regarding a possible future transfer of all or any part of the site

CHANG: Second

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

A break was announced at 12:14 pm; the meeting resumed at 12:17 pm.

12. Bend Downtown Campus Parking Project

Lee Randall introduced consultants Nicholas Speros and Joe Bessman who shared information on work to be done in the second phase of the downtown campus parking project in the areas of campus signage, parking management, accessible routes, and Traffic Demand Management (TDM) options and strategies.

With respect to the recommendation to add parking spots north of Worrell Park, Bessman confirmed that these would not alter the current configuration of the park. Commissioner Chang suggested that in the interest of transparency and clarity, persons who advocated against altering Worrell Park be made aware of the proposal to add these parking spaces.

County Administrator Nick Lelack asked if these additional spaces would be roped off during election time due to the large amount of traffic which accesses the ballot box. Randall agreed that to ensure safety, staff will regularly evaluate whether this precaution may be needed while ballots are being returned.

Commissioner Adair said the Box Factory area lacks sufficient parking and asked if the County can help address that need. Randall said staff and the City of Bend are engaging in discussions regarding the benefits of allowing off-hours parking around the Deschutes Services Building for various events and businesses.

CHANG: Move to direct staff to proceed with Phase 2 of the Downtown Bend Campus Parking Project as presented

ADAIR: Second

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

13. Subrecipient Agreement with Central Oregon Intergovernmental Council for Emergency Housing Funds from Governor’s Executive Order 23-02

Trevor Stephens, Community Justice Business Manager, reminded that the Board authorized Community Justice to apply for a grant to address short-term shelter and longer-term housing needs of individuals who are required to register as a sexual offender and/or who have conditions that restrict their proximity to minors, noting this population can experience significant difficulty in securing housing. The department was awarded a grant of \$1,078,518 to purchase and renovate a five-plus bedroom property which will provide shelter for up to 24 individuals annually. Stephens explained that a request for proposals will be issued to evaluate and select a private provider which will purchase suitable property and manage this program on behalf of the County.

ADAIR: Move approval of Chair signature of Document No. 2023-690, a subrecipient agreement with the Central Oregon Intergovernmental Council for State emergency housing funds

CHANG: Second

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

OTHER ITEMS:

- Erik Kropp, Deputy County Administrator, relayed a request to use the County’s parking lot for an upcoming weekend event. Chair DeBone said as

the County already offers this lot for public parking on the weekends, no Board action is required.

- Anthony Raguine, Principal Planner, asked if the Board wishes to initiate review of a recent Hearings Officer decision regarding File No. 247-23-000125-DR as discussed at the Board's meeting on Monday.

County Counsel Dave Doyle summarized that the question is whether actions and expenditures taken after a land use is applied for but before it is approved constitute a good faith effort to establish the desired use.

Discussion ensued regarding the precedence that may be established and what type of review the Board may elect to conduct on this matter.

ADAIR: Move approval of Board Order No. 2023-032, initiating review of the Hearings Officer's decision in File No. 247-23-000125-DR and specifying that the review be heard *de novo*

DEBONE: Second

VOTE: ADAIR: Yes
CHANG: (*abstain*)
DEBONE: Chair votes yes. Motion Carried 2 – 0 - 1

Raguine stated that the hearing will be scheduled for August 9, 2023.

- The Board reviewed draft materials which will be presented at the Chamber's "What's Brewing" event on August 8th.
- Commissioner DeBone said he will attend a pre-event function at the Fair later today.
- Commissioner Adair hoped that local media outlets will help publicize the 4H program.

EXECUTIVE SESSION: None

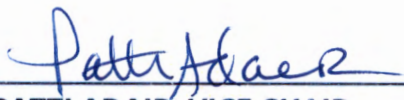
ADJOURN:

Being no further items to come before the Board, the meeting was adjourned at 1:13 pm.

DATED this 11th day of Sept 2023 for the Deschutes County Board of Commissioners.



ANTHONY DEBONE, CHAIR


PATTI ADAIR, VICE CHAIR

ATTEST:


PHIL CHANG, COMMISSIONER


RECORDING SECRETARY