



BOARD OF COMMISSIONERS

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

FOR RECORDING STAMP ONLY

BOCC MEETING MINUTES

9:00 AM

WEDNESDAY December 14, 2022

Barnes Sawyer Rooms
Live Streamed Video

Present were Commissioners Patti Adair, Anthony DeBone, and Phil Chang. Also present were Nick Lelack, County Administrator; Kim Riley, Assistant 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 Adair called the meeting to order at 9:00 a.m.

PLEDGE OF ALLEGIANCE

CITIZEN INPUT:

Chair Adair acknowledged the receipt of two citizen input emails supporting the preservation of Worrell Wayside Park.

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

CHANG: Move Board approval of Consent Agenda
DEBONE: Second

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

1. Consideration of Resolution No. 2022-080 Increasing Appropriations within the Health Services Fund and the 2022-23 Deschutes County Budget
2. Consideration of Board Signature on letters reappointing Melanie Butler and Brenda Collette to the Deschutes River Recreation Homesites Special Road District #8
3. Consideration of Board Signature on letter reappointing Megan Tucker for service on the Two Rivers Special Road District.
4. Consideration of Board Signature on letter reappointing Debra Grinols for service on the Deschutes County Ponderosa Pines East Special Road District.
5. Consideration of Board Signature on letter appointing Tina Ward for service on the Fall River Estates Special Road District.
6. Approval of the Minutes of the November 21, 28 and 30, 2022 BOCC Meetings

ACTION ITEMS:

7. **Consideration of Ordinance No. 2022-012, enacting Section 2.04.052 of the Deschutes County Code to change the mode of selection of Commissioner positions from partisan to non-partisan**

Dave Doyle, Legal Counsel, reviewed that this change to County Code to alter the mode of selection of County Commissioners from partisan to non-partisan was approved by Deschutes County electors in November. The ordinance takes effect immediately after adoption.

Commissioner Chang was gratified by this change, which the electorate supported 61% to 39%. He recognized the persons instrumental to placing this matter on the ballot, including volunteers who collected the required number of signatures. Commissioner Chang noted that more than 62,000 voters in the county are not affiliated with a political party and thus were disenfranchised in the previous partisan primaries.

Commissioner DeBone said the platforms adopted by political parties serve as a starting point to communicate their general values. He appreciated this issue went to the voters and said it was better to have this matter decided by them rather than the three County Commissioners.

Commissioner Adair agreed this was an important election and said she is glad to live in America where the populace has the right to vote.

CHANG: Move approval of Ordinance No. 2022-012, enacting Section 2.04.052 of the Deschutes County Code to change the mode of selection of Commissioner positions from partisan to non-partisan

DEBONE: Second

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

8. Second Reading of Ordinance 2022-011, amending the Comprehensive Plan and approving a Zone change for property totaling approximately 19.12 acres along Highway 97

Tarik Rawlings, Associate Planner, said no changes have been made since first reading of this ordinance was conducted on November 21st.

Commissioner Chang reiterated his disagreement with the Hearings Officer's analysis that these properties are not agriculturally viable.

DEBONE: Move approval of second reading of Ordinance 2022-011, amending the Comprehensive Plan and approving a Zone change for property totaling approximately 19.12 acres along Highway 97

ADAIR: Second

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

Chair Adair read the ordinance by title only.

DEBONE: Move adoption of Ordinance 2022-011

ADAIR: Second

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

Rawlings reported a 21-day appeal period will now commence; if no appeal is filed, the ordinance will take effect in 90 days.

9. Second Reading of Ordinance 2022-013, amending the Comprehensive Plan and approving a zone change for property totaling approximately 710 acres to the west of Terrebonne and north of Highway 126

Haleigh King, Associate Planner, said no changes have been made since first reading of this ordinance was conducted on November 21st.

Commissioner Chang restated his disagreement with the Hearings Officer's analysis and said compelling testimony was presented that this property could be used for dry land grazing as part of a viable ranching opportunity. He referred to the economic impact of the property sale in 2019 and said the Board can accept or reject the recommendation of the Hearings Officer.

Commissioner DeBone said the process included a soil analysis to inform the Hearings Officer's decision. This area has no history of farming for profit and was designated resource land approximately 50 years ago. He strongly supported the proposed changes and believed it unfair to continue to tax this property as resource land.

DEBONE: Move approval of Second Reading of Ordinance 2022-013, amending the Comprehensive Plan and approving a zone change for property totaling approximately 710 acres to the west of Terrebonne and north of Highway 126

ADAIR: Second

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

Chair Adair read the ordinance by title only.

DEBONE: Move adoption of Ordinance 2022-013

ADAIR: Second

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

10. Consideration of Board approval of Document #2022-981, accepting a grant from PacificSource for Behavioral Health Workforce Diversity

Janice Garceau, Director of Health Services, explained the request to accept a non-competitive grant from PacificSource and how the funds would be used.

CHANG: Move approval of Document #2022-981, accepting a grant from PacificSource for Behavioral Health Workforce Diversity

DEBONE: Second

VOTE: DEBONE: Yes

CHANG: Yes

Chair votes yes. Motion carried

11. STIF and 5310 Grant Funding Allocations (Transit)

Chris Doty, Road Department Director, said Oregon's Statewide Transportation Improvement Fund (STIF) offers a dedicated funding source for maintaining and expanding public transportation to improve mobility, relieve congestion and reduce greenhouse gas emissions. Deschutes County contracts with the Central Oregon Intergovernmental Council (COIC) to administer the County's STIF requirements.

Doty introduced Derek Hofbauer, COIC Outreach and Engagement Administrator, and Andrea Breault, CET Transportation Director, who explained steps taken to ensure the equitable distribution of STIF funds to projects throughout the County, including the creation of a sub-allocation method which considers where payroll taxes originated and if projects serve older adults and people with disabilities.

The STIF Advisory Committee reviewed and ranked nine proposals for funding in 2023-2025 and voted to fund all nine projects, some at amounts lower than applied for due to the limited amount of total funding available.

The Commissioners asked about the driver staffing shortage, plans to create a transit district, increasing services to the OSU and COCC campuses, and how to promote and grow ridership by regular commuters.

DEBONE: Move approval of the proposed allocation of STIF funding for the 2023-2025 project cycle as well as the proposed 5310 federal funding allocations and the sub-allocation method as proposed

CHANG: Second

VOTE: DEBONE: Yes

CHANG: Yes

Chair votes yes. Motion carried

12. Consideration of Chair Signature of Document No. 2022-834, a Notice of Intent to Award Contract for the Hunnell Rd: Loco Rd to Tumalo Rd Project

Cody Smith, County Engineer, provided background on the project and said due to recent price fluctuations, the County included provisions for asphalt oil escalation and de-escalation in the contract. Construction is expected to begin at the end of January and the project should be completed by November 2023.

DEBONE: Move approval of Document No. 2022-834, a Notice of Intent to Award Contract for the Hunnell Rd: Loco Rd to Tumalo Rd Project

CHANG: Second

VOTE: DEBONE: Yes
CHANG: Yes
Chair votes yes. Motion carried

13. Work Session for the Road Name Assignment of McClain Drive

Haleigh King, Associate Planner, reviewed the process for assigning road names and described the application to rename part of Sage Steppe Drive to match the rest of the road's name which is McClain Drive. No addresses will be affected; this item will return on a consent agenda for the Board's action.

14. Deliberations – Psilocybin TPM Amendments

Tanya Saltzman, Senior Planner, provided an overview of the process thus far to develop amendments to Deschutes County Code (DCC) to address time, place and manner restrictions for the manufacturing, processing, testing and distribution of psilocybin. Saltzman summarized the public testimony received on this matter and outlined the questions now before the Board for its deliberation, as follows:

1. What hours should psilocybin service centers be permitted to operate?
2. Should psilocybin manufacturing as farm and processing uses be allowed in forest zones (F1 and F2) in addition to EFU?
3. Should psilocybin service centers be permitted in destination resorts?
3(a) If psilocybin service centers are permitted in destination resorts, should those be permitted outright or only as a conditional use?
4. Should service centers be allowed as home occupations? Should they be allowed as commercial activities in conjunction with farm use?

The Planning Commission recommended that service center hours match those proposed in the Oregon Health Authority's rules, i.e., 6:00 am to 11:59

pm. Commissioners DeBone and Chang supported bringing back an ordinance for consideration with these service center hours to align with the hours proposed by OHA.

The Planning Commission recommended that areas permitting psilocybin manufacturing include forest zones, given that the State has declared psilocybin-producing fungi as a crop for the purposes of “farm” use and “farming practice.” Saltzman noted the cultivation of psilocybin-producing fungi must occur indoors and is permitted outright in the EFU zone.

Commissioners Chang and DeBone supported bringing back an ordinance for the Board's consideration with language allowing the manufacture of psilocybin in the F1 and F2 zones.

The Planning Commission recommended allowing service centers in destination resorts. The Board could decide to not allow these, allow them, or allow them as a conditional use subject to DCC 18.128.015.

Commissioner DeBone was supportive of allowing service centers in destination resorts as voters have twice approved making psilocybin available.

Commissioner Adair supported allowing service centers in destination resorts only as a conditional use.

Commissioner Chang agreed that voters were clear in supporting access to psilocybin and said he would prioritize allowing service centers in EFU areas over destination resorts to better assure local access.

With respect to prohibiting or allowing service centers as home occupations or as commercial activities in conjunction with farm use, Commissioners DeBone and Chang supported bringing back an ordinance for the Board's consideration that included language maintaining the potential option of service centers utilizing either home occupations or commercial activities in conjunction with farm use as a way to be sited on EFU land.

Regarding the question of allowing service centers in destination resorts outright or as a conditional use, the Commissioners discussed how to address and resolve conflicts between resort residents and commercial centers if a conditional use permit is not required for psilocybin service centers. Will Groves, Planning Manager, said if service centers were allowed outright in destination resorts, they would be presumed to be compatible with surrounding land uses, subject to site plan review, and require the submittal and processing of a land use application. Groves said requiring a conditional

use permit would grant considerable discretion to look broadly at the compatibility of the proposed use and its surrounding environment.

With regard to the language proposed by C. Celko/Emerge Law Group for DCC section 18.113.030(D)(7), Commissioners Chang and DeBone were supportive of including a modified version of this in the draft ordinance to prevent ambiguity regarding the necessity of modifying a resort's Conceptual Master Plan and/or Final Master Plan. Staff's recommended language will make clear that a psilocybin service center in a destination resort which is allowed, upon issuance of a conditional use permit, in any area approved for commercial services or specialty shops pursuant to an approved final master plan does not require modification of an approved conceptual master plan or final master plan.

Saltzman stated that staff will return with two separate ordinances for the Board's consideration and possible action—one with the bulk of the time, place and manner regulations and the other addressing service centers in destination resorts as a conditional use. Separating the legislation will allow for the regulations relating to destination resorts to be legally challenged or appealed without affecting the other regulations.

At 11:22 pm, the meeting was recessed for a short break.

The meeting reconvened at 11:29 pm.

15. 2023 Arts & Culture Grant Review

Stephanie Robinson, Administrative Analyst, presented the 16 applications received for funding through the Arts & Culture grant program. The Board considered the requests and determined awards.

OTHER ITEMS:

- Commissioner Adair reported that OSU is developing the new fire risk map required by SB 762.
- Commissioner DeBone announced an upcoming Project Wildfire meeting on December 20th.
- Commissioner DeBone said the next Solid Waste Advisory Committee meeting will feature a map with 13 potential sites for a new landfill.
- Commissioner DeBone referred to correspondence from the Bureau of Land Management regarding the review process for Redmond's wastewater treatment facility.

- Commissioner Adair said the safe parking program is held up due to an insurance issue, which possibly could be resolved by the donation of a used vehicle to that program.
- County Administrator Nick Lelack relayed a request from Envision Bend for \$25,000 in addition to the \$25,000 earlier awarded. The Board did not support awarding additional funds at this time.
- Lelack shared a request from the Environmental Center's Energy Plan Work Group to participate in those efforts, noting this would require an allocation of resources in terms of staff time. Commissioner DeBone was not supportive; Commissioners Adair and Chang were in consensus to participate as requested.
- Whitney Hale, Deputy County Administrator, announced the upcoming Leadership Bend meeting on January 17th. The Board provided direction for its preferred approach to making a presentation to the group.

EXECUTIVE SESSION: None

ADJOURN:

Being no further items to come before the Board, the meeting was adjourned at 12:26 p.m.

DATED this 14th Day of December 2022 for the Deschutes County Board of Commissioners.



PATTI ADAIR, CHAIR



ANTHONY DEBONE, VICE CHAIR



PHIL CHANG, COMMISSIONER

ATTEST:



RECORDING SECRETARY