



BOARD OF COMMISSIONERS

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

FOR RECORDING STAMP ONLY

BOCC MEETING MINUTES

2:00 PM

WEDNESDAY October 2, 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 2:02 pm.

PLEDGE OF ALLEGIANCE

CITIZEN INPUT:

- Dorinne Tye asked how many acres of land in Deschutes County have been rezoned from Exclusive Farm Use in the recent past and said hay costs more when there is less farmland available to produce it. On other subjects, she said planes are dive-bombing her house and requested that the Board honor the opinions and input of citizens with regard to the updates to the Comprehensive Plan.

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

1. Consideration of Board Signature on letters appointing Kent Zook and thanking Bette Butler for service on the Sunriver Service District Budget Committee
2. Approval of minutes of the BOCC August 21, 2024 meeting

DEBONE: Move to edit to the minutes of August 21st to include his reference to federal guidance regarding conflicts between the national Controlled Substances Act and various state laws which permit the production, distribution and use of cannabis (i.e., the Cole Memorandum), and approve the Consent Agenda as amended

CHANG: Second

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

ACTION ITEMS:

3. Notice of Intent to Award a contract to E2 Solar for a Design-Build Solar PV System and related services at the Deschutes County Fair and Expo Center

Eric Nielsen, Capital Projects Manager, reminded that the size of the public improvements associated with the Courthouse Expansion project obligates the County to complete a green energy technology project. Staff had proposed, and the Board approved, installing a photovoltaic (PV) solar technology system at the Deschutes County Fair and Expo Center to fulfill this requirement. The Board had also approved exempting this project from competitive bidding and authorized the use of design-build services for it. An RFP resulted in seven proposals, which were reviewed by a scoring committee made up of representatives from the Fair and Expo Center and the Facilities Department. E2 Solar was the highest scoring proposer and the review committee recommends its selection as the design-build contractor for this project.

In response to Commissioner DeBone, Wayne Powderly, consultant from the Cumming Group, said Mayfield Engineering had been contracted to develop the parameters of a system to be used as a basis of design for the RFP. Adding that E2 Solar's proposal described a system that could generate about 310 kilowatts, Powderly estimated that such a system could produce 108% of the energy load for three buildings.

Responding to Commissioner Adair, Powderly said no batteries are included in the project at this time, but could be added later. Powderly said it is not currently known how much it would cost to add battery storage to this system.

In response to Commissioner Chang, Nielsen said there is no current plan to tie this project into another energy or battery storage project.

DEBONE: Move approval of a Notice of Intent to Award a contract to E2 Solar for a Design-Build Solar PV System and related services at the Deschutes County Fair and Expo Center

CHANG: Second

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

4. First reading of Ordinance 2024-010 – Eden Plan Amendment / Zone Change

Will Groves, Planning Manager, presented Ordinance No. 2024-010 for the Board's consideration of first reading. The ordinance would approve a decision on remand from the Land Use Board of Appeals concerning an application for a Comprehensive Plan Amendment and Zone Change for property totaling approximately 710 acres to the west of Terrebonne and north of Highway 126.

Stephanie Marshall, Senior Assistant Legal Counsel, advised two changes to the ordinance. The first change is to the second sentence in Section 5 to clarify a prior decision by the Board and the recommendation of the Hearings Officer. Marshall advised that the revised sentence read as follows: "These findings supplement and control over inconsistent findings in Ordinance No. 2022-013 as set forth in the original Decision of the Board, attached as Exhibit 'G' and the Recommendation of the Hearings Officer, attached as Exhibit 'H'."

The second change is to page 8 of Exhibit E to reflect that Ordinance No. 2022-013, adopted on December 24, 2022 and effective March 14, 2023, is supplemented and controlled by Ordinance No. 2024-010 rather than superseded by it.

Commissioner DeBone asked about attachment A in Exhibit F. Groves said a certain level of detail is needed to prove that findings associated with the farm impacts test are supported by the facts. Groves added that staff has attempted to minimize the possibility of a second remand from LUBA.

Commissioner Chang said this application was approved by the BOCC and remanded from LUBA with specific instructions to consider ways that the land could be used for agricultural purposes. Saying he did not believe the Board did an adequate job of that, he said if the Board re-approves this proposal, it may again be remanded if parties who oppose it contest the Board's re-approval.

Commissioner DeBone responded that new case law is being created with respect to the zoning and use of unproductive farmland. He supported asking the Legislature to step in and clarify relevant land use regulations to prevent governmental overreach through the appeals process.

Commissioner Adair said the property described in the application is clearly a rocky hillside and not suitable for grazing cattle or other farming activity. While she agreed that affordable homes are needed, she spoke to the revenue generated from residential development which is assessed higher property taxes.

Commissioner Adair expressed her deep appreciation to Associate Planner Haleigh King for her work on this matter.

DEBONE: Move approval of first reading of Ordinance No. 2024-010, as modified as described by legal counsel, by title only
ADAIR: Second
VOTE: CHANG: No
DEBONE: Yes
ADAIR: Chair votes yes. Motion Carried 2 - 1

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

5. Consideration of second reading of Ordinance No. 2024-007, adopting the Deschutes County 2040 Comprehensive Plan Update

Nicole Mardell, Senior Planner, presented Ordinance No. 2024-007 for consideration of second reading and adoption by the Board.

Commissioner DeBone acknowledged that the Comprehensive Plan serves as the County's visioning document and said he was pleased with this work product and the efforts of the community.

Commissioner Chang said a tremendous amount of community input with regard to the protection of farmland, groundwater wildlife habitat and open space, as well as other concerns, is not reflected in the updated Plan. He did want his name to appear on the document.

Commissioner DeBone sought clarification of Commissioner Chang's views and stated his belief that the document balances the multiple viewpoints of the community. He added that some people who do not engage directly on issues such as this want to have confidence and comfort that the Board, as elected

representatives, is looking out for their interests with respect to matters such as private property rights.

Commissioner Chang supported the thoughtful management of growth as well as ensuring adequate water supplies to support people, wildlife and farming. He said the updated Comprehensive Plan does not provide for good stewardship of natural resources.

Discussion ensued about the housing needs of the community and what is wanted in terms of density.

DEBONE: Move approval of second reading of Ordinance No. 2024-007, by title only

ADAIR: Second

VOTE: CHANG: No

DEBONE: Yes

ADAIR: Chair votes yes. Motion Carried 2 - 1

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

DEBONE: Move to adopt Ordinance No. 2024-007, repealing and replacing Title 23, the Deschutes County Comprehensive Plan

ADAIR: Second

VOTE: CHANG: No

DEBONE: Yes

ADAIR: Chair votes yes. Motion Carried 2 - 1

In response to Planning Manager Will Groves, Senior Assistant Legal Counsel Kim Riley said Commissioner Chang's name will be removed from the document as requested.

Mardell added that the ordinance will take effect on December 31, 2024 if it is not appealed.

6. Board Decision on a Hearings Officer's decision denying a request for a psilocybin service center at Juniper Preserve (formerly Pronghorn)

Audrey Stuart, Associate Planner, reviewed the background of this matter and referred to additional information submitted by the applicant regarding the proposed center's visual screening and clear vision areas.

Referring to the issue of the transport of psilocybin across federal land, Commissioner Chang said he was satisfied by the applicant's offer to terminate operation of the center if the BLM ever took action to revoke this ROW access.

Commissioner DeBone said it is not possible to approve this land use application given the prohibition on transporting psilocybin across federal land.

DEBONE: Move approval of Document No. 2024-795, upholding a Hearings Officer's decision denying a request for a psilocybin service center at Juniper Preserve (formerly Pronghorn)

ADAIR: Second

VOTE: CHANG: No

DEBONE: Yes

ADAIR: Chair votes yes. Motion Carried 2 - 1

OTHER ITEMS:

- Commissioner DeBone referred to a letter from the Bureau of Land Management's Department of the Interior asking that the County weigh in on the City of Redmond's acquisition of a 541.5 acre parcel of public land to accommodate the expansion of its wastewater treatment facility and associated wetland treatment complex.
- Commissioner Adair commented on a letter from George Potter and Christy Clark expressing concerns about another fire in the La Pine area.
- Commissioner Adair reported on yesterday's Central Oregon Visitors Association meeting where COVA's new executive director Scott Larson was introduced, adding that Tom O'Shea now serves as chair of the Board. Despite these positive changes, some potential visitors are apprehensive about planning vacations to Central Oregon due to smoke episodes.
- Commissioner Adair remarked on negotiations to bring Southwest Airlines to the Redmond Airport.
- Commissioner Chang reported on last Thursday's meeting of the managed camp work group in Redmond, saying a significant amount of progress has been made to inventory campers and identify where camps are located. Adding that unauthorized encampments exist on several properties, he said some of these will need to be relocated.

Commissioner Adair noted that Redmond Mayor Fitch has shared that 60% of respondents said they would be willing to consider moving to a managed camp.

- Commissioner Chang reported that three Commissioners from Clatsop and Wasco Counties were hosted in Deschutes County last week in conjunction with AOC's Commissioner Exchange program.
- Commissioner Adair reported on last Monday's AOC District 2 meeting in Lakeview.
- Commissioner Adair said next Monday, a multi-family project opening at the Old Mill Inn and Suites will offer 23 of its 76 apartments to homeless people currently living in the China Hat area.
- Commissioner DeBone reported on yesterday's SLED meeting and reception.
- Commissioner DeBone announced the Deschutes Civic Assembly this Friday and Sunday.
- Commissioner Adair encouraged updating alert settings in the event of an emergency necessitating evacuation.
- Commissioner DeBone reported on last Friday's Sunriver Police Chief for a Day event and activities.
- Commissioner Adair attended the groundbreaking for Rooted Homes' Redmond project last Friday morning.
- Commissioner DeBone said at CORE3 executive council meeting last Thursday, it was decided to submit a \$20 million funding request to the Legislature for this project.
- County Administrator Nick Lelack reported on yesterday's Local Public Safety Coordinating Council meeting which included updates on the County's HB 4002 deflection program and information on the number of unrepresented people awaiting public defender services.
- Jen Patterson, Strategic Initiatives Manager, relayed a request from CLEAR Alliance for a letter to ODOT regarding the use of grant funding to develop a public education campaign to combat cannabis-induced driving.

Commissioner Chang said in the past, he did not feel that CLEAR Alliance's programs had adequate tracking of results to allow an evaluation of their impacts. He asked to know how much money the organization received from ODOT for this new campaign.

DEBONE: Move to approve the letter to ODOT on behalf of CLEAR Alliance's partnership with ODOT regarding the State's Transportation Safety Program

CHANG: Second

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

- Patterson presented a request from The Giving Plate for a generic letter of support from the Board for use in seeking philanthropic support of its programs.

Commissioner Adair shared that The Giving Plate has signed a relationship agreement with Eberhard Dairy to provide milk and other products. She stated her appreciation that The Giving Plate helps many people to stay in their homes.

CHANG: Move to approve a generic letter of support for The Giving Plate
DEBONE: Second

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

- Commissioner DeBone wished his mom a happy birthday on October 4th.

EXECUTIVE SESSION:

At 3:19 pm, the Board entered Executive Session under ORS 192.660 (2) (i) Employee Evaluation. The Executive Session concluded at 4:11 pm, at which time the Commissioners came out of Executive Session to publicly express their appreciation of County Administrator Nick Lelack's strong job performance and take the following action:

DEBONE: Move that the Board make a finding that Lelack has performed satisfactorily/met standards and is therefore eligible for a contractual increase as outlined in his existing contract

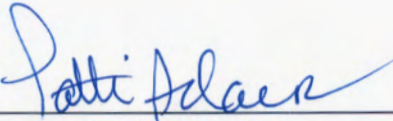
CHANG: Second

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

ADJOURN:

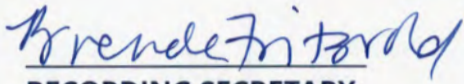
Being no further items to come before the Board, the meeting was adjourned at 4:16 pm.

DATED this 13th day of November 2024 for the Deschutes County Board of Commissioners.

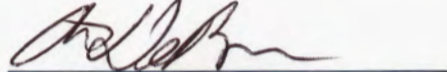


PATTI ADAIR, CHAIR

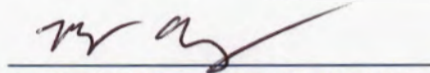
ATTEST:



RECORDING SECRETARY



ANTHONY DEBONE, VICE CHAIR



PHIL CHANG, COMMISSIONER