



BOARD OF COMMISSIONERS

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

FOR RECORDING STAMP ONLY

BOCC MEETING MINUTES

8:30 AM

WEDNESDAY September 20, 2023

Barnes Sawyer Rooms
Live Streamed Video

Present were Commissioners Tony DeBone, Patti Adair and Phil Chang. Also present were County Administrator Nick Lelack; 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.

CALL TO ORDER: Chair DeBone called the meeting to order at 8:30 a.m.

PLEDGE OF ALLEGIANCE

CITIZEN INPUT: None

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

1. Approval of Resolution 2023-054 to effect budget changes relating to appropriating \$5,905 for the Spay and Neuter Grant Program awards
2. Approval of Resolution No. 2023-055, converting 3.0 limited duration FTEs to regular for Public Health response and recovery efforts
3. Consideration of Board Signature on letter thanking Jim Getchell for his service on, and letter appointing Mark Dietz to, the Newberry Estates Special Road District

4. Approval of minutes of the BOCC August 14, 16 and 21, 2023 meetings

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

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

ACTION ITEMS:

5. Request to add 0.2 regular FTE to Health Services for language access work

Jillian Weiser, Health Services Compliance Quality Assurance Officer, explained the request to add a 0.2 regular FTE Administrative Support Technician to serve as a Language Access Liaison. The position would provide translation and in-person interpreting, coordinate interpreting and translation services provided through vendors, and advocate for health equity and linguistically appropriate and culturally competent service provisions. This work has been partially performed by a staff person who is currently in a 0.8 regular FTE Health Services position; if approved, this position would be increased to a 1.0 FTE.

CHANG: Move approval to add 0.2 regular FTE position within the Health Services Fund for language access work
ADAIR: Second

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

Cheryl Smallman, Health Services Business Officer, said a resolution will come forward on the next meeting's consent agenda to effect the needed budget amendment.

6. Grant from Natural Resources Conservation Service for Oregon Living With Fire

Joe Stutler, Senior Advisor, said the Natural Resources Conservation Service (NRCS) has offered a grant totaling \$150,000 for five years to be used by Oregon

Living With Fire to help create wildfire-resilient landscapes around privately-owned properties.

Commissioner DeBone noted the Community Wildfire Preparedness Plans, on which this work is based, identify optimal areas for fuels reduction efforts to enhance community safety.

Commissioner Chang asked to know which program within NRCS these funds derive from and if the grant will require any particular deliverables.

Commissioner Adair commented on yesterday's FireWise meeting, saying that nearly 70 FireWise communities have been established in the county. Stutler added that in 2004, there were no FireWise communities in Oregon; now, a majority of these are in Deschutes County.

CHANG: Move approval of Chair signature of Document No. 2023-875, an intergovernmental agreement with the Natural Resources Conservation Service for grant funding for the Oregon Living With Fire program

ADAIR: Second

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

As the public hearing listed under agenda item No. 7 was noticed to occur at 9:00 am, the Board took up "Other Items" and agenda item No. 8 prior to item No. 7.

OTHER ITEMS:

- Commissioner Adair relayed her conversation with Chief United States District Court Judge Marco Hernandez about the possibility of the federal court utilizing some of the space which will be created by the courthouse expansion project.
- Commissioner DeBone shared that he met with the County's lobbyist Doug Riggs regarding the upcoming legislative session.
- Commissioner DeBone reported a meeting with Redmond Mayor Ed Fitch, Redmond Airport Manager Zach Bass and Fair & Expo Director Geoff Hinds, among others, regarding possible ways to address traffic situations that result from large-scale events at the Fair & Expo Center.

Commissioner Chang said the Fair should offer camping for large events such as the FairWell Festival.

County Administrator Nick LeLack agreed the meeting was highly collaborative and resulted in the generation of several ideas such as offering remote parking at the high school.

- Commissioner Chang announced the annual REDI board retreat this afternoon.
- Commissioner DeBone said the Association of Oregon Counties District 2 meeting will be in Klamath Falls starting tomorrow.

8. AJ Tucker Building Removal

Lee Randall, Facilities Director, said no bids were received for the County-owned AJ Tucker building at 202 NW Greenwood, which must be removed to make way for the courthouse expansion project. Randall reviewed the four primary options considered to accomplish the building's removal and presented staff's recommendation to approve the third listed option which would involve select demolition of the façade and cataloging of the stones for possible transfer to a private party for future use. Randall noted that the façade is the most historically significant part of the building and could be replicated elsewhere.

Randall sought authorization to submit an application to the City of Bend for this option, saying this proposal would need to be reviewed by Bend's Landmarks Commission.

In response to Commissioner Chang, Randall said the recommended option would include the production of detailed drawings of the façade in the event that a private party wants to reconstruct it in the future.

Commissioner Adair said it would be a shame to lose this history and suggested that the stones could be moved to the fairgrounds for reconstruction at a later date. Commissioner Chang agreed and said this intention could be incorporated into the Fair's upcoming Master Plan. Commissioner DeBone concurred that the façade has historical value and said another suitable location would be the High Desert Museum next to the sawmill.

CHANG: Move approval of the submission of an application to the City of Bend for removal of the AJ Tucker Building located at 202 Greenwood for selection, demolition and cataloging of the stone façade

ADAIR: Second

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

7. Public Hearing: Mountain View Petition to incorporate

Nicole Mardell, Senior Planner, presented a staff report on the proposal to incorporate a new city of Mountain View, saying that on February 14, 2023, a prospective petition for incorporation was submitted seeking to establish a new city approximately 265 square miles (169,550 acres) in size, extending west of Diamond T Road to the intersection of Highway 20 and Highway 271. Mardell noted that the proposed boundary has been modified since the petition was submitted.

Continuing, Mardell referred to comments received from members of the public and various agencies on this proposal prior to the hearing. She shared the State requirements to initiate an incorporation process and reviewed that the role of the Board is to determine the feasibility of the proposal based on three criteria, as follows:

1. Whether the proposed boundary correctly includes all lands that would benefit from being in the proposed city;
2. Whether the taxation rate will support the proposed services; and
3. Whether the proposed city can and will be able to comply with relevant statewide planning goals, County Comprehensive Plan goals and policies, and implementing ordinances.

Mardell concluded that staff recommends denial of the petition to incorporate.

Commissioner Chang noted that Millican is designated as a rural service center and asked if any other such centers exist in the county. Mardell said the other two are Whistle Stop and Alfalfa.

In response to Commissioner Chang, Mardell said Tumalo and Terrebonne are rural communities that have mixed-use zoning and various commercial uses.

The public hearing was opened at 9:19 am.

Petitioner Andrew Aasen described the history of the area and his reasons for proposing that it be incorporated as a new city. Referring to the proposed boundary amendment, which he said is merely a suggestion, he said the area's population currently exceeds 160 residents and that he personally tallied over 200 people. He said this area lacks critical emergency services and should have a stronger community voice in land use and zoning issues.

Aasen claimed the proposed tax rate of \$2.00 per \$1,000 of assessed value could support a newly incorporated city, adding that following incorporation, the new

city would receive cigarette, liquor and gas taxes from the state according to a per capita distribution formula on a monthly basis. He noted potential additional revenue opportunities from grants and loans.

Commissioner Chang commented on the resources required to identify grant opportunities, apply for them and then administer those.

Continuing, Aasen said the new city would prepare and adopt a Comprehensive Plan consistent with state law. He spoke to other issues such as designing an urban growth boundary for future growth and said public meetings do not need to take place on public property.

Commissioner Chang referred to the goal of enhancing public safety services for residents in this area and inquired as to the boundaries of current rural fire districts. Aasen said the northwest section of the proposed incorporation area is served by the Alfalfa Rural Fire District; a private operation in Brothers could be paid to respond to fires in other areas. Commissioner Chang agreed that access to enhanced fire protection in some areas is accomplished by joining rural fire protection districts and noted this could involve a substantial assessment.

In response to Commissioner Chang, Aasen said the new city would contract for rural law enforcement patrol paid through a levy.

Commissioner DeBone noted the receipt of a letter from the Oregon Department of Land Conservation and Development (DLCD) on this proposal.

Kevin Young, DLCD, said if incorporated, the new city would have up to four years to develop and adopt a Comprehensive Plan. He noted this very large area has a low population and limited resources; if incorporated, the expectation is that it would become urbanized over time.

John Jinings, DLCD, said small incorporated towns typically have a very small boundary with little public land and a volunteer fire response. He expressed DLCD's concerns that the new city would face immense and possibly overwhelming challenges, adding that incorporating a new city would cost both the County and DLCD money and time. He concluded that the staff report on this matter was well-reasoned.

Public testimony was invited.

- Fred Terry said incorporation would generate population growth in this area, which is attractive to people who live elsewhere. He saw much opportunity and the need for police, fire and a hospital.

- Ryan Lofte supported the incorporation for the purpose of allowing development, saying he owns property which he has unsuccessfully tried to develop for four years.
- Janice Fortier explained that regulations involving sage brush protection, mineral rights, and the floodplain prevent Lofte from being able to develop his property, which remains inaccessible despite attempts to secure needed easements from ODOT.
- Mary Terry posed several questions, said there was no guarantee that the property tax rate would remain at \$2.00 per \$1,000 of assessed valuation, and noted that the proposed area of incorporation is larger than the City of Portland.
- Joe Merrill said change is inevitable but should be done properly. He noted that development in this area will be affected by buffer zones required to protect species such as sage grouse.
- Steven Payer encouraged the Board to read all of the emails submitted on this subject, saying that most of the people who live in that remote area do not want to be in proximity to others.
- Rory Isbell, representing Central Oregon LandWatch, referred to the written comments submitted by COLW and said COLW agrees with the staff report and does not consider it likely that the petitioner's goals will be met.
- Tammy Walker encouraged the Board to deny the petition, saying that she would rather see money spent to expand the equipment of the Brothers Rural Fire District.
- Jeremy Hanson opposed the incorporation proposal and agreed with staff that it should be denied.
- Darrell Barnes adamantly opposed the proposal, saying the application contains much misinformation and appears to have been initiated by a disgruntled property owner who has violations on record for building without permits.

A break was announced at 11:38 am. The meeting reconvened at 11:42 am.

During the period offered for rebuttal by the petitioner, Andrew Aasen addressed the availability of water in the area, saying that shared wells are a viable option. He explained alternative water technologies involving atmospheric water collection and the collection of rain and snow precipitation. Aasen also spoke to wastewater systems and rules regarding recycled water use and potable reuse systems. He asked that the Board advance this petition to the ballot.

Senior Planner Nicole Mardell announced that during the hearing, a letter was received from 1,000 Friends of Oregon expressing opposition to the petition. This letter was formally entered into the record.

The Board was in consensus to close the written and oral records at this time, with the caveat that the Board can read and consider the added letter from 1,000 Friends of Oregon.

There being no one else who wished to testify, the public hearing was closed at 11:58 am. The Board subsequently proceeded to conduct deliberations on this matter.

Commissioner DeBone said the proposed incorporation area is large and dispersed, yet a very small area is expected to be urbanized and just one parcel appears to be commercial at this time.

Commissioner Adair said small cities are generally very concentrated for their size. She said that incorporation does not seem to be the right decision for this community at this time and wanted to see positive things happen to benefit that area.

Commissioner Chang was skeptical that meaningful services could be provided at the proposed low taxation rate and was unsure if all of the properties in the proposed boundary would benefit from being incorporated. He endorsed not advancing this petition to the voters.

Noting that most small cities in Oregon are one square mile or less, Commissioner DeBone said other opportunities will arise for something different beyond the small rural service center. He added that La Pine was eventually incorporated only after its boundary was scaled back.

Commissioner Chang said while he supported the desire for local control, in this case, incorporation would come with a tremendous amount of responsibility and a large price tag. He did not think this proposal would generate the right amount of investment needed to accomplish what is desired.

ADAIR: Move to deny the petition to incorporate a new city of Mountain View as submitted

CHANG: Second

VOTE: ADAIR: Yes

CHANG: Yes

DEBONE: Chair votes yes. Motion Carried

Mardell said staff will return with a Board Order to formalize its denial of the incorporation petition next week.

EXECUTIVE SESSION: None

ADJOURN:

Being no further items to come before the Board, the meeting was adjourned at 12:09 pm.

DATED this 18th day of October 2023 for the Deschutes County Board of Commissioners.


ATTEST:



ANTHONY DEBONE, CHAIR



RECORDING SECRETARY



PATTI ADAIR, VICE CHAIR



PHIL CHANG, COMMISSIONER