



BOARD OF COMMISSIONERS

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

FOR RECORDING STAMP ONLY

BOCC MEETING MINUTES

9:00 AM

WEDNESDAY August 23, 2023

Barnes Sawyer Rooms
Live Streamed Video

Present were Commissioners Tony DeBone, Patti Adair and Phil Chang. Also present were Acting County Administrator Whitney Hale; 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 9:00 a.m.

PLEDGE OF ALLEGIANCE

CITIZEN INPUT:

Following discussion, a majority of the Board agreed to hear citizen input on the topics of mule deer and the County's mule deer overlay process.

- Carl Shoemaker said mule deer, which migrate in seasonal cycles, are skittish and shy away from loud noises such as cars or machinery. He proposed that a wildlife crossing be built over Highway 97 between Bend and Redmond to ensure the safe passage of mule deer with the goal of protecting and enlarging herds.
- Karl Findley referred to the County's decision to abandon its mule deer overlay process, cited ongoing misinformation and lack of understanding, and said ODFW has experts who make recommendations and decisions based on science. Adding

that the mule deer’s winter range is crucial to the survival of the species, he said 90% of Deschutes County residents live within that winter range.

- Michael O’Casey spoke to the importance of mule deer to the community and shared his disappointment in the County’s decision to abandon the overlay process. Saying that the mule deer population has declined over the last 20 years, he appreciated that ODFW was invited to share information on this subject.

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

1. Approval of Resolution No. 2023-049 regarding right-of-way acquisitions for construction of road improvements on Powell Butte Highway and Butler Market Road
2. Approval of Behavioral Health Sponsorship for Oregon Recovers
3. Authorizing the extension of the Criminal Justice Commission’s Restorative Justice grant to December 31, 2024
4. Consideration of Board Signature on letter reappointing Jeff Swan for service on the Black Butte Ranch County Service District Managing Board
5. Consideration of Board Signature on letter reappointing Rosemary Norton for service on the Black Butte Ranch Service District’s Budget Committee
6. Consideration of Board Signature on letter thanking Steve Strang for eight years of service on the Deschutes County Public Health Advisory Board
7. Approval of the minutes of the July 24, 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:

8. **Public Hearing on the proposed conveyance of property on Drafter Road in La Pine to Foundation for Affordable Housing**

Kristie Bollinger, Property Manager, explained that in 1987, the County acquired multiple properties on Drafter Road in La Pine through the tax foreclosure process for nonpayment of property taxes. Foundation for Affordable Housing (FFAH) has offered to purchase three of those properties for the development of affordable housing. Bollinger reviewed the specifics of the purchase offer and development proposal, saying the estimated 125 housing units will serve low-income seniors as well as other persons of qualifying incomes.

In response to Commissioner DeBone, Bollinger said it is not yet known how the estimated \$500,000 in gross proceeds from the sale will be distributed as a result of a recent Supreme Court decision.

The public hearing was opened at 9:16 am.

- Tommy Waldron, representing FFAH, said one of the 39-unit buildings will house seniors and the other two will be for families. He described the work done to date and said this project will contribute to the supply of affordable housing in La Pine.

There being no one else who wished to testify, the public hearing was closed at 9:21 am.

In response to Commissioner Adair, Bollinger said the real market value of the parcel at 52695 Drafter Road currently shows as zero because the Assessor's office does not typically value County-owned property.

Commissioner Chang asked if the County could consider selling the properties at a lower price if the proceeds will not be distributed to various taxing districts as was formerly done with foreclosed properties. Assistant Legal Counsel Kim Riley said according to the recent court decision, any surplus funds realized in a sale of foreclosed property could potentially be returned to the person or entity which owned the property when it was foreclosed on. Thus, an argument might be raised if the properties are not sold close to their current market value then additional compensation may be owed to the former property owner.

Bollinger added that FFAH commissioned an appraisal to determine the current value of the properties. Waldron confirmed that FFAH offered to buy the properties at a 20% discount from the appraised value.

ADAIR: Move approval of Board Order No. 2023-034, designating the Deschutes County Property Manager Kristie Bollinger as the Deschutes County representative for the purpose of signing documentation to complete the sale of County-owned property

located at 52721, 52711, and 52695 Drafter Road, La Pine, Oregon, 97739

CHANG: Second

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

9. Request for Proposals from Deschutes County Community Justice Department for New Shelter and Housing Units for Male Justice-Involved Individuals

Trevor Stephens, Community Justice Business Manager, said following the receipt of a grant to create short-term shelter and longer-term housing options through a public-private partnership for individuals being supervised by Community Justice, the department seeks authorization to issue a Request for Proposals to select a provider. Stephens said in accordance with the State grant, the housing must be low barrier. He reviewed provider requirements that will be listed in the RFP along with sample questions and said the housing must be at least 1,000 feet away from a school or park.

Heather Simes, Parole & Probation Officer, verified that it is difficult to supervise individuals in the absence of stable housing situations.

CHANG: Move to authorize staff to issue Document No. 2023-751, a Request for Proposals for a new shelter and housing units for male justice-involved individuals

ADAIR: Second

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

10. Deliberations: Repeal of the Conventional Housing Combining Zone

Rachel Vickers, Associate Planner, said following the August 9th public hearing on the proposed legislative amendments to repeal the Conventional Housing Combining Zone, one comment was submitted posing several questions, which staff answered.

The Commissioners spoke to the history of the zone, which had been implemented in certain limited areas by petition. Commissioner Chang said the zone is discriminatory against low-income households.

ADAIR: Move approval of the staff-initiated text amendment (file no 247-23-00391-TA) to repeal the Conventional Housing Combining Zone
CHANG: Second

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

ADAIR: Move approval of first and second reading of Ordinance No. 2023-019 by emergency order and title only
CHANG: Second

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

Chair DeBone read the first and second reading of the ordinance by title only into the record.

ADAIR: Move adoption of Ordinance No. 2023-019, amending Deschutes County Code Title 18, Chapter 92, to Repeal the Conventional Housing Combining Zone
CHANG: Second

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

11. Oregon Department of Fish and Wildlife Mule Deer Presentation

Tanya Saltzman, Senior Planner, said following the Board's withdrawal of the mule deer inventory update project in June, the Board invited the Oregon Department of Fish and Wildlife (ODFW) to provide information on ODFW's research concerning the decline in the region's mule deer population.

Andrew Walch, ODFW District Wildlife Biologist and Corey Heath, Deschutes Watershed Manager, explained ODFW's mission and role in land use along with its wildlife habitat mitigation policy, the goal of which is no net loss of habitat quality or quantity.

Walch said because ODFW does not numerate wildlife populations according to county boundaries, it is not able to estimate the decline in the population of mule

deer in Deschutes County proper; however, the State utilizes various methods to estimate population numbers over time in defined areas. Walch described the conditions which stress the population (drought, roadkill, disease, predation, disturbance, and habitat alteration and fragmentation) and what can be done about each, noting that the 70% annual survival rate for adult doe mule deer in the Deschutes herd range is the lowest in the state.

Heath confirmed that the number of deer which do not migrate but live in populated areas year-round are especially declining and nowadays represent a fraction of former non-migrating populations.

Commissioner Chang asked how the results of efforts which are undertaken to slow the population decline can be measured.

Commissioner Adair appreciated the work being done to remove juniper and restore bitterbrush and native grasses, which are food sources for deer.

12. ARPA Updates and Funding Considerations

Robert Tintle, Chief Financial Officer, said of the \$38.4 million in ARPA funds awarded to the County by the federal government in 2021, approximately \$5,159,829 remains to be allocated. He shared staff recommendations that the Board consider the following appropriations:

- \$1,625,000 for current obligations and projects already discussed by the Board to formalize the use of ARPA funds for eligible expenditures (\$450,000 for Veterans Village operations; \$300,000 for Veterans Village new cabins; \$500,000 to assist with expanding the capacity of Redmond's wastewater treatment plant to accommodate Terrebonne; and \$375,000 to fund the Coordinated Houseless Response Office through the end of 2026);
- \$2,000,000 to provide support services for future managed/supportive homeless camps; and
- Up to \$1,000,000 to reimburse ARPA-eligible County expenditures already incurred.

Laura Skundrick, Management Analyst, distributed a list of new community requests for ARPA funds which together total \$4,037,493.

Janice Garceau, Director of Health Services, presented requests for \$174,000 in crisis client support and \$1,101,045 for Public Health response and recovery efforts. Much of these funds would be used to retain three staff on the emergency preparedness team; other funding would be allocated to cover weekend shifts for crisis client support.

Karen Prow, Director of Child Care Resources at NeighborImpact, presented requests of \$142,000 for childcare workforce development (the Pathways Program) and \$530,000 for fast track teacher training.

Rick Russell and Michele Cross, Mountain View Community Development, presented a request for \$1,500,000 to help fund the creation of a managed RV park on nine acres of the East Redmond Homeless Campus next to Oasis Village. Cross explained this proposal envisions a public/private partnership between various organizations and agencies, including the City of Redmond.

Commissioner Chang asked if this will be a low barrier shelter. Russell said it will not, and that persons residing in the RVs will pay rent.

Commissioner DeBone commented that the County cannot proceed with the planned land exchange with DSL until homeless persons are cleared off of the County-owned property, which will require establishing alternate sites where people are authorized to relocate.

In response to questions, CFO Tintle said if approved, the \$2,000,000 allocation recommended by the Administration for supported/managed homeless camps would be available for use through the end of 2026.

Robert Fish spoke to the request for \$75,000 for seed funding of the Tumalo wastewater system conversion project.

Skundrick listed the remaining requests, as follows:

- \$190,000 for engineering and other services from Parametrix associated with establishing the Terrebonne wastewater system;
- \$25,000 for veterans counseling by The Shield;
- \$121,472 for AEDs from the La Pine Rural Fire Protection District;
- \$24,400 for Inspire Early Learning Centers; and
- \$429,621 for a new childcare center in Sisters (April Farmer, applicant).

Chair DeBone noted the consensus of the Board to take up the rest of the agenda items at this time and resume discussing this matter at 1:30 pm after the Board takes a lunch break (see page 10).

13. Deliberations on a request to vacate a portion of Schibel Road

Commissioner Chang commented that the Board is being asked to determine the nature of the public interest in this portion of Schibel Road, which is difficult due to the competing interests of the involved parties. He noted that the County is

not able to verify many of the claims made by the vacation proponents and those opposed to it, and referred to legitimate concerns raised by all parties.

Commissioner DeBone stated he will support the finding of the Road Department that the vacation is in the public interest. He added that possible future access to affected properties may yet be negotiated between the property owners.

Commissioner Adair noted that the property owners of tax lot 1901 supported the vacation and stated her agreement with the Road Department that this vacation is in the public interest.

ADAIR: Move that the Board support the requested vacation of a portion of Schibel Road as presented

DEBONE: Second

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

County Engineer/Assistant Road Director Cody Smith said the Road Department will proceed with securing the required right-of-way dedication which was a condition of approval for the vacation; that dedication along with a formal order approving the vacation will be brought back to the Board for final action.

14. Deliberations of Hearings Officer decision on initiation of use involving a marijuana production facility in the 26200 block of Willard Road

Avery Johnson, Assistant Planner, reviewed that the public hearing on this matter was held on August 9th, after which both the oral and written records were closed. He presented three options for the Board's decision, as follows:

1. Uphold the Hearings Officer's decision.
2. Modify the Hearings Officer's decision by finding that the present circumstance is unique because the proposed use, marijuana production facility, is no longer allowed. Therefore, in this specific circumstance, considering expenditures made prior to the land use approval is appropriate.
3. Overturn the Hearings Officer's decision by finding the unintended consequences to be significant, adopt staff's recommendation, and deny the initiation of use application.

Commissioner DeBone supported modifying the Hearings Officer's decision in this unique instance, clarifying that he does not otherwise support initiated use before a land use decision is issued.

Commissioner Chang agreed this is a unique case and wished that the County was able to impose a fine or penalty for initiated uses.

CHANG: Move to modify the Hearings Officer's decision in this case and find that the present circumstance is unique because the proposed use—a marijuana production facility—is no longer allowed. Therefore, in this specific circumstance, considering expenditures made prior to the land use approval is appropriate.

DEBONE: Second

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

15. Second reading of an ordinance amending Deschutes County Code relative to camping and other sleeping associated activity on public property

David Doyle, County Counsel, reminded the Board that, if adopted, enforcement of this new section of County Code would be contingent on offering alternate sites that persons displaced from non-authorized sites could relocate to. He said if adopted by the Board today, the provisions would take effect in 90 days.

Commissioner Adair referred to a letter received from Bend City Councilor Anthony Broadman stating that House Bill 2006 does not prohibit safe parking outside of Urban Growth Boundaries. Doyle clarified that this interpretation is not supported by State departments or the County's Legal or Community Development departments.

In response to questions, Doyle said the ordinance could be challenged on its face after it is adopted, but he would not expect a challenge to be made unless and until it is applied.

ADAIR: Move approval of second reading of Ordinance No. 2023-013 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.

ADAIR: Move adoption of Ordinance No. 2023-013, amending Title 11.04, Public Use, of the Deschutes County Code

CHANG: Second

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

At 12:26 pm, the meeting was recessed for a lunch break. The meeting was reconvened at 1:31 pm to resume consideration of the ARPA updates and funding item.

12. ARPA Updates and Funding Considerations
 (continued from page 7)

The discussion of ARPA updates and funding considerations was resumed. Chief Financial Officer Robert Tintle referred to the three separately identified ARPA contingency categories and said it is at the Board's discretion whether to retain these funds as currently categorized or move all or part of them into the category of general available ARPA funds.

Cheryl Smallman, Health Services Business Officer, spoke to the department's requests for \$174,000 in crisis client support and \$1,101,045 to retain three staff on the emergency preparedness team and said a reduced allocation of \$647,000 would enable the retention of all three positions to December 31, 2025.

ADAIR: Move approval of allocations of ARPA funding as follows:

- Veteran's Village operations: \$250,000
- Veteran's Village expansion: \$300,000
- Terrebonne wastewater system: \$500,000
- CHRO: \$250,000
- Managed/supportive homeless camps: \$2,000,000
- Public Health emergency preparedness staffing: \$647,000
- NeighborImpact Childcare Workforce Development: \$500,000
- The Shield Veterans Counseling: \$5,000
- NeighborImpact Food Warehouse Expansion: \$150,000
- Mountain View Transitional Shelter (RV site): \$200,000
- Parametrix Terrebonne Wastewater System: \$190,000
- Tumalo Wastewater System Conversion Seed Funding: \$75,000

The remaining funds of \$92,182 are to be utilized to reimburse Deschutes County for ARPA eligible costs already incurred.

CHANG: Second

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

OTHER ITEMS:

- Commissioner DeBone reminded that he will speak at the Redmond Rotary tomorrow; planned topics include the siting process for a new landfill and the Oasis Village project.

EXECUTIVE SESSION:

Chair DeBone noted the consensus of the Board to postpone the scheduled Executive Session under ORS 192.660 (2) (d) Labor Negotiations to the following week.

ADJOURN:

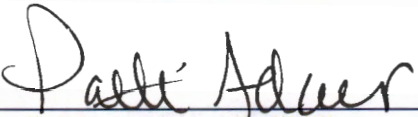
Being no further items to come before the Board, the meeting was adjourned at 2:33 pm.

DATED this 27th day of Sept. 2023 for the Deschutes County Board of Commissioners.



ANTHONY DEBONE, CHAIR

ATTEST:



PATTI ADAIR, VICE CHAIR



RECORDING SECRETARY



PHIL CHANG, COMMISSIONER