



BOARD OF COMMISSIONERS

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

FOR RECORDING STAMP ONLY

BOCC MEETING MINUTES

9:00 AM

WEDNESDAY September 13, 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 9:00 a.m.

PLEDGE OF ALLEGIANCE

CITIZEN INPUT:

- Carl Shoemaker said negative information such as the high cost of housing is not shared with people who express interest in moving to Bend.

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

1. Approval of Resolution No. 2023-053 accepting grant funding for the Victims of Crime Act and Criminal Fine Account and extending 2.7 FTE positions in the FY2023-24 Deschutes County Budget
2. Approval of Board Order No. 2023-035 authorizing the sale of property at 16609 Dillon Way in La Pine, and further authorizing the Deschutes County Property Manager to execute the documents associated with the sale

3. Approval of the procurement of four replacement dump trucks for the Road Department
4. Approval of the minutes of the August 9, 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:

5. Enterprise Zone Abatement Extension for BasX

Deputy County Administrator Erik Kropp and REDI Director Steve Curley presented a request from BasX to extend its Enterprise Zone property tax abatement from three years to five years. Curley said extending the abatement period to five years requires that the company’s average compensation for all net new jobs is at least 150% of the County’s average annual compensation (including salary, overtime, bonuses, and medical and retirement benefits).

ADAIR: Move approval of Chair Signature on Document No. 2023-843,
 Greater Redmond Area Zone Extended Abatement Agreement
 CHANG: Second

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

6. Senate Bill 80 – Wildfire Hazard Risk Mapping Discussion

Will Groves, Planning Manager, said the Oregon Department of Forestry has issued a new draft statewide wildfire risk map in advance of next week’s meeting in Klamath Falls where this will be discussed. The map replaces the one released in 2022, which was withdrawn for further refinement; the previous map’s five levels of classification have been consolidated into three levels: high, moderate and low. Groves distributed detailed maps produced by County IT staff using the data supplied for the Bend, La Pine, Redmond, Sisters and Sunriver areas along with tables enumerating how many properties and acres are designated as “high

hazard” (or predominantly high hazard—the statewide map is currently not drawn according to individual property boundaries) and breaking those out according to how they are zoned.

Kevin Moriarty, County Forester, said although some areas of Deschutes River Woods, West Bend and south of Sunriver have been ranked as moderate risk, areas with similar conditions and seemingly similar risks are ranked high. He said Bend proper is ranked low risk, but he believed it should be ranked moderate. He was concerned that there is no discernible difference between some areas which are ranked moderate risk and adjacent areas which are ranked high.

Peter Gutowsky, Community Development Director, said the detailed maps produced by staff can be customized at the Board’s direction between now and the meeting in Klamath Falls next week.

Commissioner DeBone asked if the County has GIS information showing the footprints of the FireWise communities. Moriarty said some of this information is available, but not all of the 60-plus Firewise communities have been mapped out. Commissioner Adair asked if this information could be compiled by next week, saying these communities should be recognized for all the work they have done.

Commissioner Chang emphasized that the wildfire risk map is meant to identify areas where measures should be taken to promote and conduct fuels removal, home hardening and other risk reduction efforts. Noting that the map cannot be used to set insurance rates, he said insurance companies have their own data and models and are not using this map for rate or coverage decisions.

Gutowsky did not expect that the State will take what local communities have done or are doing to establish higher resiliency to wildfire into consideration when finalizing the map, since the map’s purpose is to determine wildfire hazard vulnerability in accordance with SB 762 and SB 80.

Commissioner Chang said after the risk levels are determined via the finalized map, the insurance industry will be required to provide discounts for defensible space work that has been accomplished.

Responding to Commissioner DeBone, Gutowsky said hardening requirements would not apply to existing structures, but rather to any new residential or accessory structures or additions.

Commissioner DeBone asked for information on whether properties designated as high risk will be required to establish defensible space, and if so, what resources will be available to property owners.

Gutowsky said after public comment is solicited and received on the map, counties will have another opportunity to provide feedback before it is finalized. The State has not yet shared a timeline for collecting input and finalizing the map.

Commissioner DeBone noted that all of Deschutes County is highly susceptible to wildfire, given the right dry and wind-driven conditions.

Commissioner Chang spoke to the difference between the previous map and the one now being considered, saying that the new map assesses risks for burn probability and fire intensity but not susceptibility. He was not sure if these two factors were modeled correctly and was concerned that these risks are in fact higher than depicted in the new draft map.

Commissioner Adair questioned if irrigated agricultural properties or those with large ponds should be classified as high risk and noted an area outside of Sisters where 2500 trees were removed is shown as moderate risk.

County Administrator Nick Lelack said the County will need to know the timeline for compliance with the regulations and what entities will be responsible for enforcing those. Commissioner Chang expected that these duties will be delegated to local communities and agreed that the State will need to be clear about the implications of those delegations.

7. Public Hearing and consideration of Ordinance No. 2023-021 concerning the Local Wildfire Hazard Zone and Oregon Residential Specialty Code updates regarding wildfire hazard mitigation

Will Groves, Planning Manager, provided an overview of the County-initiated proposal to modify the existing building code standards of the Local Wildfire Hazard Zone. Groves explained that on October 1st, updates to section R327 of the Oregon Residential Specialty Code (ORSC) will take effect. Because section 15.04.085 of the Deschutes County Code references ORSC section R327, the forthcoming updates to the ORSC will expand the current prohibition on wood shake roofs to also affect siding, overhangs, ventilation and other components of new residential construction (both houses and accessory structures).

To prevent this, staff has proposed a minor update to Deschutes County Code section 15.04.085 to specify that this provision applies only to the current prohibition on wood shake roofs which has been in place since 2000.

The public hearing was opened at 10:07 am. There being no one who wished to testify, the public hearing was closed at 10:08 am.

CHANG: Move approval of first and second reading of Ordinance No. 2023-021
by title only
ADAIR: Second

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

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

ADAIR: Move adoption, on an emergency basis to take effect immediately,
of Ordinance No. 2023-021 amending Deschutes County Code Title
15, Building and Construction Codes and Regulations, to modify the
development standards for the Wildfire Hazard Zone

CHANG: Second

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

8. Board Decision on Land Use File No. 247-23-000125-DR, Initiation of Use

Avery Johnson, Assistant Planner, reminded that the Board conducted deliberations on this matter on August 23rd.

Commissioner DeBone said due to the unique situation that this land use matter involves a marijuana production facility and the State is no longer issuing licenses for such uses, the Board's decision is very specific to this particular decision and will not have precedent-setting effect.

CHANG: Move approval of Board signature of Document No. 2023-849,
revising the Hearings Officer's decision approving a Declaratory Ruling
and initiation of use application for a marijuana production facility at
26295 Willard Road, Bend

DEBONE: Second

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

9. Second Reading of Ordinance No. 2023-015 - LBNW, LLC Plan Amendment / Zone Change

Anthony Raguine, Principal Planner, said the Board conducted first reading of this ordinance on August 30th.

ADAIR: Move approval of second reading of Ordinance No. 2023-015 by title only

DEBONE: Second

VOTE: ADAIR: Yes

CHANG: No

DEBONE: Chair votes yes. Motion Carried 2 - 1

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

ADAIR: Move adoption of Ordinance No. 2023-015 amending Deschutes County Code Title 23, the Deschutes County Comprehensive Plan, to change the Comprehensive Plan Map Designation for certain property from Agriculture to Rural Industrial, and amending Deschutes County Code Title 18, the Deschutes County Zoning Map, to change the Zone Designation for certain property From Exclusive Farm Use to Rural Industrial

DEBONE: Second

VOTE: ADAIR: Yes

CHANG: No

DEBONE: Chair votes yes. Motion Carried 2 - 1

10. Authorization of Issuance of Debt for Courthouse Expansion and Potential Refinancing

Robert Tintle, Chief Financial Officer, said the resolution presented for the Board's consideration would authorize the issuance of bonds not to exceed \$20.5 million for the courthouse expansion project, which is expected to cost \$40.5 million. Tintle said if the bonds are issued at an interest rate of 3.96%, the annual debt service payments would amount to approximately \$1.6 million.

Tintle additionally sought authorization to refund outstanding 2013B bonds which became callable on June 1, 2023. He explained that the County may save a minimum of \$228,000 and up to \$349,000, depending on market conditions.

Commissioner Adair reported a meeting scheduled for September 28th with representatives from the 9th Circuit Court who have expressed interest in using all of the third floor of the courthouse. Tintle said if the Circuit Court leases this

space, the County could set aside that income and potentially be able to call the project bonds as soon as ten years from now.

ADAIR: Move approval of Resolution 2023-051 authorizing financing of a project in a principal amount not to exceed \$20,500,000 and refunding the County's Full Faith and Credit Bond

CHANG: Second

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

Commissioner DeBone noted that Deschutes County has a low amount of debt proportionate to the county's size.

11. Pence Early Work Contract Amendment for the Deschutes County Courthouse Expansion Project

Lee Randall, Facilities Director, explained that the purpose of the early work amendment is to authorize construction services prior to establishing the guaranteed maximum price of the project. Randall said the amendment would not increase the overall maximum estimate for the project. The work anticipated to be done includes early procurement of electrical and mechanical equipment, courtroom mock-up, site logistics, site utilities, demolition, earthwork, and providing a temporary construction entrance and egress. The company selected to serve as construction manager and general contractor, Pence Contractors, will conduct a competitive bidding process for needed materials and work to be performed by subcontractors.

Eric Nielsen, Capital Project Manager, added that the needed permits will be staggered with infrastructure work anticipated to start in February, pending the City's permit review timelines.

ADAIR: Move approval of Document No. 2023-839, Pence Early Work Contract Amendment for the Deschutes County Courthouse Expansion Project

CHANG: Second

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

12. Amendment #1 to Oregon Health Authority grant agreement #180009-1 for Public Health

Heather Kaisner, Public Health Director, said the proposed amendment to the intergovernmental agreement with Oregon Health Authority includes program element descriptions for the Ryan White and suicide prevention programs and provides new funding totaling \$669,814.57 for certain efforts, including tobacco prevention and education and HIV early intervention and outreach.

Commissioner DeBone expressed interest in learning how the County can be more strategic with regard to State funding of Public Health programs and initiatives. Commissioner Chang agreed that he would welcome more information on how Public Health engages in legislative analysis and advocacy.

Kaisner shared that this week, the Oregon Coalition of Local Health Officials (CLHO) will hold its annual retreat. Kaisner said CLHO represents all of Oregon's 32 local public health departments; one of its key focuses is to advocate on behalf of its membership on issues and bills pertaining to public health.

Commissioner DeBone asked that staff schedule a work session to enable the Board to learn more.

CHANG: Move approval of Chair signature of Document No. 2023-819, an amendment to an intergovernmental agreement with Oregon Health Authority for funding of four program elements through June 30, 2024

ADAIR: Second

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

13. City of Bend Homeless Partnership: Franklin Avenue Shelter Contract Amendment

Dan Emerson, Budget & Financial Planning Manager, said the amendment to the Franklin Avenue Shelter contract would remove the reference to "non-congregate" shelter. Emerson explained this change was requested by Shepherd's House for the purpose of better utilizing the space.

Commissioner Adair noted that the capacity at the Navigation House will temporarily reduce due to remodel work in near future. She said some people may need to be relocated from there to the Franklin shelter.

Commissioner Chang said the change from non-congregate to congregate shelter will allow sheltering two or three non-related people in one of the converted hotel rooms instead of just one person.

ADAIR: Move approval of County Administrator signature of Document No. 2023-845, an amendment to the contract with the City of Bend to use ARPA funds for the Franklin Avenue homeless shelter

CHANG: Second

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

14. Second reading and adoption of Ordinance No. 2023-020, amending Deschutes County Code relative to signs placed within the County road right-of-way

Dave Doyle, County Counsel, said the Board conducted first reading of this ordinance on August 30th.

CHANG: Move approval of second reading of Ordinance No. 2023-020 by title only

ADAIR: 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. 2023-020 amending Title 10.05, Right of Way Signs, of the Deschutes County Code

CHANG: Second

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

Commissioner DeBone noted that the ordinance will take effect in 90 days. Commissioner Chang added this amendment will not prevent private property owners from displaying signs on their property.

OTHER ITEMS:

- Jen Patterson, Strategic Initiatives Manager, relayed the City of La Pine's request for a letter of support for a technical assistance grant offered by the Department of Land Conservation and Development. The Board was in consensus to direct staff to draft a support letter as requested.
- Commissioner DeBone said to accommodate the Simpson Avenue project groundbreaking at 11:30 on Monday, October 16th, the Board meeting that day will start at 1:30.
- Commissioner DeBone relayed communication from the Eastern Oregon Counties Association (EOCA) regarding upcoming annual membership dues. Commissioner Chang wanted to evaluate the tangible outcomes of this membership, given the expense of \$12,500. Commissioner Adair supported renewing the membership. Commissioner DeBone was open to discussing this further, noting that EOCA may lobby for legislation that Deschutes County aligns with.
- Commissioner Chang announced that the State is preparing to release and solicit public input on its groundwater allocation rules. Saying this will be of particular interest to the City of Redmond, he said generic, one-size-fits-all rules would be problematic.

Commissioner DeBone said the County's lobbyist Doug Riggs will be involved in evaluating these rules via the Central Oregon Cities Association.

- Commissioner DeBone shared his attendance at recent SLED and Historical Society Board meetings and said he also met with St. Charles leadership regarding the Medicare situation. He added that he will attend the Central Oregon Health Council meeting tomorrow on Commissioner Adair's behalf as well as the Central Oregon Area Commission on Transportation.

EXECUTIVE SESSION:

At 11:05 am, the Board recessed into Executive Session under ORS 192.660 (2) (h) Litigation. At 11:38 am, the Board exited Executive Session to direct staff to proceed as discussed.

At 11:38 am, the Board recessed into Executive Session under ORS 192.660 (2) (e) Real Property Negotiations. At 11:50 am, the Board exited Executive Session to direct staff to proceed as discussed.

ADJOURN:

Being no further items to come before the Board, the meeting was adjourned at 11:50 am.

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

ATTEST:



ANTHONY DEBONE, CHAIR



RECORDING SECRETARY



PATTI ADAIR, VICE CHAIR



PHIL CHANG, COMMISSIONER