



## BOARD OF COMMISSIONERS

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

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# BOCC MEETING MINUTES

9:00 AM

**WEDNESDAY May 10, 2023**

Barnes Sawyer Rooms  
Live Streamed Video

Present were Commissioners Tony DeBone, Patti Adair and Phil Chang. Also present were Nick Lelack, County Administrator; David Doyle, County Counsel; 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](http://www.deschutes.org/meetings).

**CALL TO ORDER:** Chair DeBone called the meeting to order at 9:00 a.m.

### PLEDGE OF ALLEGIANCE

### CITIZEN INPUT:

- Dorinne Tye objected to ongoing operations and activity connected to the Bend airport. She said although residents value wildlife and quiet, the County allowed the airport to expand which has resulted in multiple negative effects on ecosystems in the area.
- Jeff Fatland opposed the piping of the Arnold Irrigation District (AID) canal, saying that neighboring properties will lose the amenity of this attractive water feature, and thus lose value. He added that many wells along the canal are already failing or starting to run dry and was concerned that fire hazards will increase.
- David Zimmerman also opposed piping the AID canal, saying that his plat shows a 25-foot easement for maintenance but the District now claims a 50-foot

construction easement. He said this change will affect many adjacent property owners and result in the loss of many trees without compensation.

- Jerry Rudloff said residents who will be negatively affected by the canal piping are being ignored by the AID. He said while the canal may have a seepage problem, and he agreed with water conservation efforts, he opposed a pipeline as it would damage many trees and impact over 300 wells. He said installing a liner would protect against water loss at much less cost.
- Wade Fagen said the most efficient and environmentally sound way to recharge the aquifer is through the canal. He lamented the loss of history, heritage and beauty that will happen with the conversion to a pipeline.
- Debra Rudloff expressed concern about the loss of old-growth Ponderosa pines that will result from the AID pipeline project and said many trees are already marked for removal, including 383 large trees in Phase 1 alone. She said several thousand trees are expected to be removed in Deschutes River Woods and advocated for lining the canal instead of removing it.
- Ruby Swanson objected to the AID piping project, saying that it was a waste of money to convert to a pipe, which will degrade and leak over time. She claimed that only 4 cfs will be gained by piping and said it was absurd to spend that much money on something with so little benefit yet many negative effects.
- Rich Gilbert agreed with the need to conserve water but was concerned that installing a pipe would be invasive and impact his septic system. He added that no individual communication has been made to adjacent property owners about this project.
- Geoff Reynolds said many plants will be lost by piping the canal, and wildlife subsequently endangered due to the loss of habitat. He supported granting the County authority to manage and oversee projects such as this in the public right-of-way and questioned whether the piping project would actually save water that would remain in the river.
- Douglas Eldred also opposed piping the canal and said lining it would be far better option for many reasons.
- Dorinne Tye also opposed the piping of the AID canal.
- Alexandra Nickoli (via Zoom) spoke against piping the canal, saying this would disrupt the ecosystem and residents. She explained she would need to move her fence and shed and said many trees will be lost.

Commissioner Chang noted that the AID has some of the most junior water rights in the Deschutes River basin, which is over-appropriated. He explained that the right-of-way for this use is established in State law and the courts, and the County did not authorize the funding for this project or weigh in on the EIS. He appreciated the concerns about potential impacts but said the appropriate body to hear those is the AID board.

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

1. Approval to authorize the County Administrator to sign a Notice of Intent to Award a contract for electronic monitoring services
2. Approval of minutes of the April 28, 2023 BOCC Legislative Update meeting
3. Approval of April 3, 5 and 12, 2023 BOCC meeting minutes

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

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

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**ACTION ITEMS:**

**4. Letter of Support for the Deschutes County Justice Reinvestment Preliminary Formula Grant Application for the 23-25 Biennium**

Trevor Stephens, Business Manager for Community Justice, and Tanner Wark, Deputy Director of Community Justice, sought approval of a letter communicating the Board's support for the Oregon Justice Reinvestment Program preliminary formula grant application. Stephens said the County received \$1,563,762 for staff and services for the 2021-2023 biennium, and anticipates being awarded a similar allocation for the next biennium.

Commissioner Chang noted that the Public Safety Committee is strongly in support of moving this application forward.

CHANG: Move approval of Chair signature on a letter communicating the Board's support for the Oregon Justice Reinvestment Program preliminary formula grant application

ADAIR: Second

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

## 5. **Bicycle and Pedestrian Advisory Committee Annual Report**

Tanya Saltzman, Senior Planner, expressed gratitude for the Board's support of the work done by the Bicycle and Pedestrian Advisory Committee (BPAC). The Board joined her in presenting certificates to the Safe Sidewalk award winners: Owen Brand, Newport Ave Market, Brian See, Joseph Therrien, Technology Design Associates, Nate Lund, Thomas Stewart, Joanne Bulley and Stahancyk, Kent & Hook Family Law.

Commissioner DeBone acknowledged friends and neighbors who clear snow, leaves and other materials from sidewalks and expressed appreciation for the work of the BPAC to address issues with the aim of enhancing safety for bicyclists and pedestrians.

Dave Thomson, BPAC Chair and Dave Green, BPAC Vice Chair, described key items the Committee has been working on, including an update of the Deschutes County Transportation System Plan, the Central Oregon Bicycle and Pedestrian Summit, and opportunities and issues relating to e-bikes.

## 6. **Public Hearing to take testimony on proposed amendments to Deschutes County Code regarding a multi-year option for dog licenses and an exemption from license fees for assistance animals, and consideration of Board action to conduct first and second reading and emergency adoption of Ordinance No. 2023-008 to effect these changes**

David Doyle, County Counsel, summarized the proposed changes to Deschutes County Code to offer dog owners the option of purchasing multi-year licenses and exempt assistance animals from being subject to a license fee. Doyle explained the ordinance is being brought forward for emergency adoption to enable an effective date of July 1<sup>st</sup> for these revisions, in accordance with the effective date of other proposed changes to the County's fee schedule to align with the new fiscal year.

Chief Financial Officer Robert Tintle and Judi Hasse, Deputy Tax Collector, said the changes would offer options for a one-, two- or three-year dog license. The ordinance would also update the definition of a service animal.

*The public hearing was opened at 10:20. Seeing no one wished to speak, Chair DeBone closed the public hearing at 10:20.*

CHANG: Move approval of first and second reading of Ordinance No. 2023-008  
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 emergency adoption of Ordinance No. 2023-008 to amend  
                         Title 6.04, Dog Licenses, of the Deschutes County Code  
CHANG:            Second

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

Chair DeBone acknowledged the declaration of an emergency to enable the changes to take effect on July 1<sup>st</sup>.

**7. Intergovernmental Agreement with the US Forest Service to fund the Oregon Living With Fire Program**

Joe Stutler, Senior Advisor, reported that this agreement is undergoing further negotiation with the Forest Service; staff will bring it forward when it is ready for consideration by the Board. This item was removed from the agenda.

**8. Amendment to Memorandum of Understanding with Oregon Living With Fire**

Joe Stutler, Senior Advisor, said the counties of Crook, Deschutes, Jefferson, and Klamath have collaborated on the Oregon Living With Fire (OLWF) program since 2018. The original Memorandum of Understanding expires on June 30, 2023, and the proposed amendment would extend the agreement for an additional five years.

Stutler said due to an increased fiscal contribution from the Forest Service, the cost to Deschutes and other participating counties will not change. Noting that the Natural Resources Conservation Service may contribute funding as well, Stutler said the proposed budget impact to Deschutes County remains \$33,750 per year.

Discussion ensued regarding funding awarded to numerous organizations by the Oregon Fire Marshal's Office in accordance with Senate Bill 762 which provides for greater wildfire response, preparedness, and resiliency. Jodie Barram, OLWF



Co-Coordinator, said grants awarded to support community risk reduction projects in Deschutes County total \$1.9 million. These funds will be used to educate and assist property owners in establishing and maintaining defensible spaces to deter the spread of fire.

CHANG: Move approval of an amendment to the Memorandum of Understanding with Oregon Living With Fire

ADAIR: Second

VOTE: ADAIR: Yes

CHANG: Yes

DEBONE: Chair votes yes. Motion Carried

### **9. Consideration of request to rename Pronghorn Club Drive as Juniper Preserve Drive**

Audrey Stuart, Associate Planner, summarized the request to change the name of a road which extends for approximately 4.1 miles to the north of Powell Butte Highway. This private road is currently named Pronghorn Club Drive; an abutting property owner has submitted a request to change the name to Juniper Preserve Drive.

Commissioner Adair asked how many notices were sent out to neighboring properties. Stuart said notices were sent to the owners of all property which abuts the road as well as to various agencies and service providers such as the school district.

Stuart said staff will bring this back for consideration of Board action on May 17<sup>th</sup>.

### **10. Resolution No. 2023-023, allocating \$36,675 of contingency within video lottery to grant programs**

Stephanie Robinson, Grants and Operations Specialist, explained the need to increase appropriations in the Video Lottery Fund by \$36,675 and decrease the contingency by the same amount to accommodate allocations made to additional projects in FY 2023.

Robinson acknowledged direction from Commissioner Chang that the remaining \$2,000 in his discretionary grant balance be allocated to NeighborImpact's Housing Stabilization Barrier Busters program.

ADAIR: Move approval of Resolution No. 2023-023, allocating \$36,675 of contingency within video lottery to grant programs

CHANG: Second

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

**11. Deliberations: Plan Amendment and Zone Change to approximately 93 Acres located east of Bend between Neff Road and Highway 20**

Nathaniel Miller, Associate Planner, distributed a decision matrix containing four key issues to be decided by the Board. Commissioner DeBone said while he was not present at the public hearing on April 5th, he watched the video in preparation to participate in the deliberations and decisions. DeBone confirmed he had nothing to disclose in terms of a conflict of interest in this matter.

1. Does the subject property constitute agricultural land under OAR 660-033-0020(1)(a)?

A majority of the Board was in agreement that the subject property does not constitute agricultural land under OAR 660-033-0020(1)(a).

Commissioner Chang said while soil can be amended with compost, he accepted the findings of the soil survey. He added that this property is an area subject to intense urbanization pressure.

2. Does the site-specific soil study show the property is predominantly Class VII-VIII soils?

A majority of the Board was in agreement that the site-specific soil study show the property is predominantly Class VII-VIII soils.

3. Is there an approval criterion which requires the Board to analyze the proximity of the proposed PA/ZC with respect to the UGB and future UGB expansions?

A majority of the Board was in agreement that there is no approval criterion which requires the Board to analyze the proximity of the proposed PA/ZC with respect to the UGB and future UGB expansions.

4. Is there an approval criterion which requires the Board to analyze housing affordability for the subject plan amendment and zone change?

A majority of the Board was in agreement that there is no approval criterion which requires the Board to analyze housing affordability for the subject plan amendment and zone change.

Commissioner Chang added that developing these properties at a density of MUA-10 would not result in affordable housing. He reiterated his support for the findings of the Hearings Officer.

ADAIR: Move approval of the request for a Comprehensive Plan Amendment and Zone Change (File nos. 247-22-000313-ZC, 314-PA) for properties addressed as 62385 Hamby Road and 21480 Highway 20

CHANG: Second

VOTE: ADAIR: Yes

CHANG: Yes

DEBONE: Chair votes yes. Motion Carried

In response to Commissioner Chang, Will Groves, Planning Manager, said staff has had no further discussions with the City of Bend regarding joint coordination of potential future development outside of Bend's UGB. Commissioner DeBone suggested that the Board may want to hold a joint meeting with the city.

#### **OTHER ITEMS:**

- Jen Patterson, Strategic Initiatives Manager, invited the Board to determine which of the Commissioners will be appointed to serve on the Wolf Depredation and Compensation Advisory Committee.

Commissioners Adair and Chang both expressed interest in this appointment. A coin was flipped and Commissioner Chang was thus selected to represent the Board on the Wolf Depredation and Compensation Advisory Committee.

- Commissioner Adair attended the Fair Association meeting.
- Commissioner DeBone announced that Denise Lee, Juvenile Department, will appear in the "Solis Baking Competition" show on the Magnolia Network in June.
- Commissioner Chang reported on Monday's meeting of AOC's Legislative Committee.
- Commissioner DeBone reported on the COIC board meeting last Thursday and the Health Services Budget Committee meeting. He said on Monday, he traveled to Salem to meet with the Eastern Oregon Counties Association. While there, he lunched with the Governor, distributed copies of letters from the Board asking that the State allow safe parking programs on rural lands to Deputy Chief of Staff for Public Administration Chris Warner and connected with Housing and Homelessness Initiative Director Taylor Smiley Wolfe on issues related to homelessness and possible land use changes to accommodate supportive camping and safe parking.



- Commissioner DeBone attended the State's Interoperability quarterly meeting where communications for public safety needs and personnel were discussed.
- Commissioner DeBone announced he will attend the National Association of Counties 2023 Western Interstate Region conference next week. He will attend Monday's Board meeting remotely and likely Wednesday's as well.

**CITIZEN INPUT:**

- Karrie Newman opposed the AID canal piping project and was upset that although she understood she must grant 25 feet of easement, the district now claims twice that amount. She also addressed an alleged mistake on the County's assessment map and property taxes that she should not have been charged.

**EXECUTIVE SESSION:**

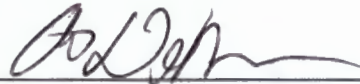
At 11:36 a.m., the Board recessed into Executive Session under ORS 192.660 (2) (e) Real Property Negotiations.

*The Board moved out of executive session at 11:47 a.m. to direct staff to proceed as directed.*

**ADJOURN:**

Being no further items to come before the Board, the meeting was adjourned at 11:47 a.m.

DATED this 7<sup>th</sup> day of June 2023 for the Deschutes County Board of Commissioners.



**ANTHONY DEBONE, CHAIR**



**PATTI ADAIR, VICE CHAIR**

**ATTEST:**



**RECORDING SECRETARY**



**PHIL CHANG, COMMISSIONER**