



## BOARD OF COMMISSIONERS

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

FOR RECORDING STAMP ONLY

# BOCC MEETING MINUTES

9:00 AM

**WEDNESDAY January 11, 2023**

Barnes Sawyer Rooms  
Live Streamed Video

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

Chair DeBone acknowledged the receipt of emails from:

- Carolyn A. Carry, asking that ODOT's request for a noise variance to allow nighttime construction on the Tumalo-Cooley Road project be denied; and
- Tom Beach, Operations Frontline Manager of the FAA's Portland office, responding to complaints of low-flying aircraft in the vicinity of the Bend airport.

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

CHANG: Move Board approval of Consent Agenda  
ADAIR : Second

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

1. Consideration of Document No. 2022-946, an amendment to the contract with Youth Villages for crisis and transition services
  2. Adoption of Board Order No. 2023-006 directing the La Pine Rural Fire Protection District to comply with the Deschutes County Ambulance Service Plan and Chapter 8.30 of the Deschutes County Code
  3. Approval of the BOCC meeting minutes of December 21, 2022
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#### **ACTION ITEMS:**

#### **4. Consideration of approval to purchase two 2024 International Truck Tractors**

Randy McCulley, Fleet & Equipment Manager, explained that the 2024 truck tractors will replace current 2006 tractors, which in turn will be converted to snow plow/sanders for seasonal use.

ADAIR:        Move Board approval of Document No. 2023-084, authorizing the purchase of two 2024 International HX620 truck tractors from Peterson International in the amount of \$313,741.30

CHANG:        Second

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

#### **5. Sisters Area Chamber of Commerce Presentation**

Judy Trego and Turi Shergold from the Sisters Area Chamber of Commerce (SACC) thanked the County for its continued support of small businesses and economic development. Trego described the SACC's activities, events and marketing efforts, and reiterated SACC's request for \$125,000 in video lottery funds to support its operations and programs.

Commissioner Adair expressed appreciation for the extensive reach of SACC's leadership, advocacy and services, and said it helps to keep the community vibrant.

Responding to Commissioner Chang , Trego explained that the Chambers of Sisters and Sunriver are much smaller than others and do not have access to Transient Room Tax (TRT) funds as do the Chambers of La Pine, Redmond and Bend.

Stephanie Robinson, Administrative Analyst, said the Board can decide to approve the SACC's request at this time, bring this matter back at a future meeting, or roll this request into the FY 2024 video lottery grants process.

ADAIR: Move Board approval of granting the Sisters Area Chamber of Commerce \$75,000 now in video lottery funds and considering the remaining \$50,000 requested amount during the FY 2024 budget cycle

CHANG: Second

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

## **6. City of Sisters ARPA Reserve Allocation Request**

Scott Woodford, Community Development Director of the City of Sisters and Sisters Mayor Michael Preedin explained the request that the County disburse \$500,000 in ARPA funds to the City for a 40-unit affordable housing project targeted at persons making between 60-65% of Area Median Income (AMI). Woodford said a site has been identified and NW Housing Alternatives (NHA), an experienced developer of affordable housing, will build and manage the project.

Mayor Preedin expressed appreciation for the partnership with the County on this initiative and said some of the units will be used for transitional housing while others will be workforce housing.

Clayton Crowhurst from NHA said the project will be three stories; the goal is to maximize the number of units provided.

Commissioner Chang inquired about the project's total cost as well as other funding sources and amounts. Noting that the ARPA funds must be expended by December of 2026, he wanted assurance that the project will proceed before committing the \$500,000.

Crowhurst responded that the total cost is estimated to be between \$14 and \$20 million. He shared possible funding sources, including a variety of grants that will be applied for. He emphasized that NHA is well-established, has been in

operation for 40 years, and does not flip or sell projects but rather continues to manage them after they are built.

CHANG: Move Board approval of a formal allocation to the City of Sisters of \$500,000 in ARPA funding for an affordable housing project

ADAIR: Second

VOTE: ADAIR: Yes

CHANG: Yes

DEBONE: Chair votes yes. Motion Carried

Commissioner DeBone requested that the City of Sisters provide an update on this project in one year.

## **7. Public Hearing: Oregon Department of Transportation Noise Variance**

Rachel Vickers, Associate Planner, explained the request from the Oregon Department of Transportation (ODOT) for a noise variance to allow nighttime work on the Tumalo—Cooley Road project.

*The public hearing was opened at 10:12 am.*

- Jordan Marks, representing the contractor, explained that the noise variance is needed because lane closures will only be allowed between 8 pm and 7 am.
- Dale Pere said his property is directly adjacent to the project. He expressed his support for the lane closures and nighttime work.
- Jane Warner said the current work is already disruptive during the day. She opposed the nighttime work as it will disrupt sleep.
- Wendy Finnan said there is good reason for laws against nighttime noise, primarily the negative mental health effects of not getting enough restorative sleep.

*The public hearing was closed at 10:27 am.*

Responding to Commissioner Chang, Vickers said notice was provided in excess of what State law requires. A mailing was sent to all properties that will potentially be affected and the same notice was also published in the Bulletin.

Commissioner Adair noted that the Board received ten emails opposing this request.

Commissioner DeBone said the nighttime work will not happen over the entire course of the project. Commissioner Chang said this roundabout is needed to save lives and prevent terrible accidents, and some nighttime work will be necessary.

CHANG: Move Board approval of Document No. 2023-018, granting ODOT a noise variance to allow nighttime construction on the Tumalo—Cooley Road project

ADAIR: Second

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

Commissioner Adair said it will be important that ODOT notify the neighbors in advance of the nighttime work so they are aware.

## **8. Planning Commission Representation / Geographic Areas**

Peter Gutowsky, Community Development Director, sought direction from the Board on the preferred number of appointed Planning Commissioners and their respective geographic areas of representation. He presented three options for the Board's consideration, the first of which is supported by staff—this option would retain the current Planning Commission makeup of seven members and replace one At-Large position with a position representing the Tumalo area.

Commissioner Chang favored having more information and analysis before making a decision. He referred to the proposal to have a seat designated to represent Terrebonne and said that the area shown as representing Tumalo should be larger in fairness to the rest of the County.

Commissioner Adair suggested that the Eagle Crest area could be included in Tumalo. She said many in Tumalo feel disenfranchised and Terrebonne is also experiencing many large changes as well.

Commissioner DeBone was comfortable with keeping the Commission at seven members, committing that Tumalo will have a seat without changing Code, and starting recruitment this month. He respected the input and engagement on this subject.

Chair DeBone noted consensus of the Board to proceed with the first option for the current recruitment and address the specific distribution of the geographic areas at a later time.

Gutowsky noted the recruitment will begin on February 1<sup>st</sup>. Commissioner Chang asked that as this proceeds, staff be clear about what the Planning Commission does and does not do.

## **9. Public Hearing: Planning Division Long Range Work Plan for FY 2022-2023**

Will Groves, Planning Manager, sought direction from the Board on prioritizing long-range planning projects as staff capacity allows. Possible projects to move forward include the Wildlife Inventory Update, which had been paused to address psilocybin regulations, as well as a number of other items characterized as minor, moderate or significant according to their expected use of staff resources.

Commissioner Chang referred to substantial public controversy on the wildlife inventory maps and overlay, as an update may limit development opportunities.

Groves said while updated regulations may preclude some uses, it may also be the case that certain benefits of new development could outweigh some wildlife protections. He said if directed by the Board to proceed with updating the wildlife inventory maps, staff would: schedule open public houses and a hearing, establish an interactive webpage to provide information and receive comments, and draft findings and parcel-specific maps showing properties that would be affected by a new mule deer winter range. He estimated this work would take six months.

Commissioner DeBone said everyone desires to see a healthy mule deer population in the county.

Commissioner Adair noted the number of deer lost every year to collisions with vehicles and questioned how many are lost to cougar predation.

*The public hearing was opened at 11:18 am.*

Chair DeBone acknowledged the receipt of 91 emails on this subject.

- Mary Jo Hedrick, representing Oregon Hunters Association, acknowledged the complexity of this matter and said OHA wants to be involved and participate as needed to assist throughout the inventory update effort.
- Ian Isaacson stated his pride in providing wild-range venison for his family and spoke to the decline in wildlife populations due to human intrusion. He encouraged valuing open space and asked that the Board prioritize updates to the Goal 5 wildlife inventory plan.
- Ed Putnam said he personally has observed the population decline and redistribution of mule deer in and around central Oregon over twenty years, along with a dramatic increase in human population and use of recreational

land. He noted impacts of hiking, dog walking and motorized vehicles and urged changes to allow the mule deer population to rebound.

- Suzanne Linford encouraged the Board to prioritize the update of the wildlife inventory maps and further encouraged including all interested parties in this effort.
- Michael O'Casey appreciated that Ms. Linford reached out to the Tumalo Irrigation District to hear their concerns and establish points of agreement on this issue. He said more mule deer are killed by vehicle collisions and poaching than by legal hunting.
- Emily Weidner shared that both bald eagles and golden eagles are protected species. Saying that US Fish and Wildlife seeks to assist informed development, she added that conservation and development are not mutually exclusive and expressed her support for improved decision-making.
- Jamie Bowles, Oregon DFW, shared graphs showing the decline in the mule deer population over time as their habitat has been compressed and degraded. Saying it is possible to address habitat loss and fragmentation, she described key conservation issues.
- Karl Findling said action must be taken now to prevent further loss of mule deer and the potential listing of the species on the ESA. He noted the effects of development sprawl and industrialization and supported providing formal, designated corridors to protect the future of wildlife for all generations.
- Benjamin Rubin said it was important that wildlife be prioritized and asked that the Board direct an updating of the inventory.
- Steve Hagen, representing the Oregon Hunters Association, thanked the Board for allowing public comment on this matter. He referenced several factors impacting the population of mule deer, including poaching and predation, and encouraged the update of the inventory maps.
- Mark Labhart urged the Board to direct an update of the wildlife inventory as it is important to have good information.
- Kris Sabo said that Deschutes County's fast growth is impacting wildlife and encouraged adding the wildlife inventory update to the long range work plan.
- Steve Shropshire, representing the Deschutes Basin Board of Control, supported work on Code revisions to differentiate hydroelectric riverine facilities from conduit facilities. He said these revisions would facilitate green energy and irrigation needs.
- Mark Stockamp supported continuing to pause the update of the wildlife inventory maps or removing it from the work plan entirely. He said OFW is proposing overreaching restrictions on development that would worsen the housing crisis and said many factors impact the mule deer population, including cougars and permitted hunting.
- Douglas Stout said housing developments are by far the largest threat to the loss of wildlife habitat.

*The public hearing was closed at 12:15 pm.*

The Board discussed directing staff to proceed with an update of the wildlife inventory as well as amendments to the Code regarding conduit hydroelectric facilities. Chair DeBone noted the consensus of the Board to have staff return in two weeks for further direction on the remaining potential work plan items.

**10. Board Order 2023-004—Decision whether to hear two appeals of a Hearings Officer's decision for a Thornburgh Resort modification request**

Caroline House, Senior Planner, said two appeals have been filed requesting the Board hear the appeals of a Hearings Officer's decision which denied the Thornburgh Destination Resort's modification request to its Fish and Wildlife Mitigation Plan. The applicant had proposed to conserve water by reducing some water intensive amenities, and also by reducing irrigated landscaping for resort facilities and individual homes.

The Hearings Officer denied the Resort's modification request based on the lack of sufficient time for the Oregon Department of Fish & Wildlife to review the modifications and submit a meaningful response, and additionally due to a failure to propose clear, objective and enforceable compliance language.

House concluded that staff recommends the Board agree to hear the appeals with a *de novo* review.

Commissioner Chang commented this matter involves complex issues with technical factors. He did not believe the Board had the expertise to conduct a satisfactory evaluation and make a determination.

Stephanie Marshall, Assistant Legal Counsel, said the Board could select which matters it wants to address.

ADAIR: Move approval of Order No. 2023-004, accepting review *de novo* of the Hearings Officer's decision in File No. 247-22-000678-MC (Thornburgh)

DEBONE: Second

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

House said a work session will be scheduled prior to the public hearing, which will happen on February 1<sup>st</sup>. The Board determined time limits as follows: 30 minutes for the applicant; 20 minutes for the appellant; 20 minutes for agencies; and three minutes for other testimony.

*Chair DeBone announced a break at 12:53 pm.*



*The meeting reconvened at 1:18 pm.*

**11. Authorization to apply for a grant in the amount of \$3.25 million from FEMA’s Building Resiliency in Communities program and also for a \$500,000 grant from the Oregon State Fire Marshall**

Due to the temporary non-availability of presenting staff, this item was deferred until 3:00 pm (see page 13).

**12. Consideration of Administrative Policy GA-23, Removal of Unsafe Encampments Located on County-owned Property**

Kristie Bollinger, Property Manager, reported that following numerous fires last summer on County-owned property originating from encampments, staff convened a work group to draft a responsive policy in accordance with State law. Bollinger emphasized the intent is to address criminal activity, fire risk and other unsafe behavior.

Commissioner Chang appreciated that the limited scope of the policy does not authorize a wholesale clearing of camps from County-owned property. He requested a comparison with Bend’s recently adopted regulations on encampments.

Commissioner Adair spoke to the need to be mindful that over 200,000 people live in Deschutes County, and fires pose an extreme risk. She appreciated taking action to prevent potentially tragic situations.

Cheyenne Purrington, Director of the Coordinated Houseless Response Office, said these type of policies are often not applied broadly but rather serve as one tool in a range of programmatic and other resources. Noting that larger, more dense encampments tend to generate certain hazards, she said although the proposed policy would allow the County to balance competing interests, it won’t always be the appropriate tool for each situation.

Commissioner Chang asked if this policy will be used to move people from the County-owned property in Redmond. Kim Riley, Assistant Legal Counsel, reiterated that the policy is meant to address unsafe encampments. It has not yet been determined if it will be used for any specific camp.

ADAIR: Move to authorize County Administrator signature of Administrative Policy GA-23, Removal of Unsafe Encampments Located on County-owned Property

CHANG: Second

VOTE: ADAIR: Yes

CHANG: Yes  
DEBONE: Chair votes yes. Motion carried

### 13. Courthouse Expansion Scope of Work

Whitney Hale, Deputy County Administrator, reviewed the Board's action in December to proceed with designing the expansion of the courthouse according to Option No. 2, which would include both 3<sup>rd</sup> and 4<sup>th</sup> floor shell spaces. Subsequent to that decision, Commissioners Adair and DeBone indicated their desire to revisit the scope of the project.

Commissioner DeBone summarized that adding a 4<sup>th</sup> floor shell space would cost \$4.5 million, but this area may not be used for 20 years. He preferred to be more constrained at this time.

Commissioner Adair agreed and added she wishes to see the cost of the third floor shell space reduced from \$1,000 per square foot.

Commissioner Chang said building the 4<sup>th</sup> floor now at a relatively modest cost would create capacity that will be needed in the future and that could be used for partner activities in the near term.

Lee Randall, Facilities Director, said it was important to decide this question now and give clear direction so the design work can begin. He expected to bring a new cost estimate to the Board in the spring along with the schematic design.

ADAIR: Move to rescind the Board's prior action to approve programming option #2 for the courthouse expansion project design

DEBONE: Second

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

ADAIR: Move approval of programming option #1 for the courthouse expansion project design

DEBONE: Second

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

### 14. Oregon Department of Energy Community Renewable Energy Grant Program

Jen Patterson, Strategic Initiatives Manager, explained staff's proposal to apply for a Community Renewable Energy Grant from the State. Lee Randall, Facilities Director, elaborated that any monies awarded would be used to install a new well at the Fair & Expo Center, which would supply 500,000 additional gallons per minute to the property. The project would also include the installation of a new submersible pump, a water filtration system to convert to potable water, and a potable water storage facility. The grant would also result in power for Emergency Operations staging and EV charging stations.

Commissioner Chang commented that a previous grant application submitted by the County for this program would have scored higher had it demonstrated service to underserved and vulnerable populations, since one goal of this program is to increase resiliency of communities.

ADAIR: Move to authorize staff to apply for a \$1,000,000 grant through the Community Renewable Energy program for a community energy resilience project at the Fair & Expo Center

CHANG: Second

VOTE: ADAIR: Yes

CHANG: Yes

DEBONE: Chair votes yes. Motion carried

#### **15. Request and Discussion of Worrell Wayside Park Application for a City of Bend Upland Area of Special Interest Designation**

Nick Lelack, County Administrator, described a citizen-initiated proposal that the County consider submitting an application to the City of Bend to designate Worrell Wayside Park as a New Upland Area of Special Interest (ASI) per City of Bend Code 2.7.700. Facilities Director Lee Randall noted that this code is expansive and addresses pathways, tree trimming, and other activities.

Commissioner Adair noted the presence of a serious, committed group of people who are willing to work on this. She asked to know what would be required to rescind this designation if it was pursued and approved.

The Commission chose not to authorize a citizen to submit an application on the County's behalf for an ASI designation for Worrell Wayside Park.

#### **16. Document No. 2022-939, amending the agreement with PacificSource for healthcare coordination services**

Kara Cronin, Behavioral Health Program Manager, explained staff is seeking the Board's approval to extend this contract with PacificSource for six months.

CHANG: Move approval of Chair signature of Document No. 2022-939, amending the agreement with PacificSource for coordination of care for adults with mental illness

ADAIR: Second

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

**17. Request to repurpose an existing mediation full-time position to support the School-Based Health Center**

Erik Kropp, Deputy County Administrator, introduced the proposal to repurpose an existing mediation full-time position to support the School-Based Health Center programming at Redmond High School and Sisters High School, making each SBHC position at these locations a 1.0 FTE starting February 1<sup>st</sup>. This change would help facilitate access of youth and young adults to crucial mental health care.

ADAIR: Move approval of repurposing position #1737 for assignment to the School-Based Health Center program

CHANG: Second

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

**11. Authorization to apply for a grant in the amount of \$3.25 million from FEMA's Building Resiliency in Communities program and also for a \$500,000 grant from the Oregon State Fire Marshall**

This item had been deferred from earlier in the meeting (see page 9).

Kevin Moriarty, County Forester, and Joe Stutler, Senior Advisor and Contact Administrator, Oregon Living With Fire, explained the grant proposals. If awarded, the \$3.25 million grant from FEMA's BRIC program would be used for a water storage and heat-activated sprinkler system on the High Desert Museum campus to protect irreplaceable museum articles and over 150 animals, some of which are threatened/ endangered, from wildland fire.

The \$500,000 maximum-amount grant from the State's Fire Marshall Office (OFSM) would be awarded through the Community Wildfire Risk Reduction program for defensible space efforts, community common area projects, educational projects and other specified allowed uses to achieve greater wildfire preparedness and increase community resiliency to wildfire.

CHANG: Move to authorize staff to apply for a grant in the amount of \$3.25 million from FEMA's Building Resiliency in Communities program and to also apply for a grant in the amount of \$500,000 from the Oregon State Fire Marshall

ADAIR: Second

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

#### **OTHER ITEMS:**

- County Administrator Nick Lelack shared information on the Federal advisory committee pertaining to national forests within the Northwest Forest Plan Area of California, Oregon and Washington.
- Lelack reported that interviews for the Fair & Expo's Board of Directors have concluded; the recommended re-appointment and appointment will come before the Board next week on its consent agenda for approval.
- Lelack said the Board has been invited to speak at the upcoming La Pine—Sunriver Chamber Breakfast on February 16<sup>th</sup> regarding the ways in which Deschutes County supports local businesses.
- Lelack presented draft input to submit to the Bend City Council in response to its request for comment on its major goals. The Board suggested various changes, including discussion of an urban area reserve to address development applications within the Urban Growth Boundary on lands zoned Rural Residential.
- Commissioners provided feedback and suggestions on the draft presentation for the Board to deliver at next week's Leadership Bend meeting;
- With respect to the 2023 Legislative Session updates, the Board concurred to have the next one on Wednesday, 1/18 during its regular meeting and thereafter schedule the updates as standalone Friday morning meetings.
- Lelack reported an inquiry from the City of Bend regarding coordinating, along with the COIC, to pursue a portion of the \$40 million to be made available by the State to address homelessness. The Board was in consensus to allocate staff resources to these cooperative efforts.
- Commissioner Chang reported that the AOC Legislative Committee sent three items back to their respective steering committees.

**EXECUTIVE SESSION:** None

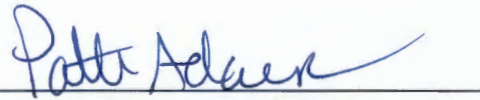
**ADJOURN:**

Being no further items to come before the Board, the meeting was adjourned at 3:41 p.m.

DATED this 1<sup>st</sup> Day of February 2023 for the Deschutes County Board of Commissioners.



**ANTHONY DEBONE, CHAIR**



**PATTI ADAIR, VICE CHAIR**



**PHIL CHANG, COMMISSIONER**

**ATTEST:**



**RECORDING SECRETARY**