



## BOARD OF COMMISSIONERS

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

FOR RECORDING STAMP ONLY

# BOCC MEETING MINUTES

9:00 AM

**WEDNESDAY March 1, 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 citizen input emails on the subject of the planned clearing of the Hunnell Road encampments by the City of Bend, and advice on shipping solid waste from the County by rail.

- Greg Bryant objected to the proposed displacement of homeless campers from the Hunnell Road area to a site on Murphy Road near Highway 97. While he agreed that homeless persons need a place where they feel safe, he said they should be dispersed in all four quadrants rather than in just one area.
- Ed Murrer spoke to how homeless camps are organized and managed, emphasizing that the biggest issue is accountability. He opposed moving campers from Hunnell Road to south Bend, noting that people will be allowed to use drugs onsite, and said most

businesses in that area are unaware of this proposal because public outreach has either not been done or done improperly.

- Jennifer Lingard asked that the County hold the City of Bend accountable for not protecting its residents. She believed the proposal to move campers from Hunnell Road was an attempt by the City to shift responsibility to the County, and implored the County to reject this proposal in the absence of any security measures.

Commissioner Chang said in contrast to the Hunnell Road encampment, which is unauthorized and unmanaged, the new proposed site will be fenced, limited to 25-30 people, and require adherence to rules of conduct.

Commissioner Adair agreed with the need for security, especially considering the many calls for law enforcement at Hunnell Road. She did not want to add more problems in south Bend and said the new site would be restricted to particularly vulnerable persons. She spoke to successful programs such as the safe parking site in Redmond and Veteran's Village, commented on the need for rules and to respect people on both sides, and concluded that many homeless persons need assistance for substance use disorder and mental illness.

Commissioner DeBone said the vision of the proposed new site would be to offer a safe, supportive environment for medically fragile people. Persons who cause problems would not be allowed.

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

ADAIR: Move Board approval of Consent Agenda

CHANG: Second

VOTE: ADAIR: Yes

CHANG: Yes

DEBONE: Chair votes yes. Motion Carried

1. Consideration of approval of a lease with the Department of Environmental Quality for continued use of an air-monitoring site located at the Deschutes County Road Department
2. Consideration of Board Signature of Order No. 2023 - 009, appointing Health Services Director's Designees
3. Consideration of Purchase Agreement, Document No. 2023-061, and Dedication Deed, Document No. 2023-062, from Ted K. Gilbert and Kerry S. Gilbert for Right of Way for the Deschutes Market Road/Hamehook Road Intersection Improvement Project

4. Consideration of Board Signature on letter appointing Loren Kellogg for service on the Deschutes County Extension / 4H Budget Committee.
5. Approval of minutes of the February 17, 2023 BOCC Legislative Update meeting
6. Approval of the minutes of the February 1, 8 and 13, 2023 BOCC meetings

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**ACTION ITEMS:**

**7. Approval and signature of Document No. 2023-131, an Intergovernmental Agreement creating the Deschutes County Road Agency**

David Doyle, Legal Counsel, introduced the proposal to create a new entity, the Deschutes County Road Agency, for the purpose of receiving federal funding in accordance with the Secure Rural School and Community Self-Determination Act (SRS) which offsets the loss in timber revenue from federal lands. These funds can be used for education, road maintenance, wildfire prevention, and/or search and rescue services.

Chris Doty, Public Works Director, explained the reason for the change in the way these funds are received is to avoid having the County's federal PILT (Payment in Lieu of Taxes) revenue discounted by the amount of SRS funding received in a prior year. This methodology is authorized under State law and would result in an approximate \$800,000 annual revenue increase in PILT funding received by the County.

Doty added that the geographical boundary of the Road Agency will be the same as the County's boundary. This proposal is supported by the Cities of Redmond, La Pine, and Sisters, and the County is partnering with the Deschutes County 911 Service District to create the Road Agency for the receipt and administration of SRS funds.

CHANG: Move Board signature of Document No. 2023-131, an Intergovernmental Agreement creating the Deschutes County Road Agency

ADAIR: Second

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

*The Board convened as the governing body of the Deschutes County 911 Service District.*

**8. Approval and signature of Document No. 2023-131, an Intergovernmental Agreement creating the Deschutes County Road Agency**

CHANG: Move Board signature of Document No. 2023-131, an Intergovernmental Agreement creating the Deschutes County Road Agency

ADAIR: Second

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

**9. Public Hearing: Adoption by Emergency, of Ordinance No. 2023-006, an ordinance ratifying the creation of an intergovernmental entity known as the Deschutes County Road Agency**

*The public hearing was opened at 9:35 a.m.*

*Seeing no one wished to speak, Chair DeBone closed the public hearing at 9:35 a.m.*

CHANG: Move approval of first and second reading of Ordinance No. 2023-006, including emergency adoption, by title only, an ordinance ratifying the creation of an intergovernmental entity known as the Deschutes County Road Agency

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. 2023-006, an ordinance ratifying the creation of an intergovernmental entity known as the Deschutes County Road Agency

CHANG: Second

VOTE: ADAIR: Yes  
CHANG: Yes

DEBONE: Chair votes yes. Motion Carried

*The Board reconvened as the governing body of Deschutes County.*

**10. Public Hearing: Adoption by Emergency of Ordinance No. 2023-005, an ordinance ratifying the creation of an intergovernmental entity known as the Deschutes County Road Agency**

*The public hearing was opened at 9:37 a.m.*

*Seeing no one wished to speak, Chair DeBone closed the public hearing at 9:38 a.m.*

ADAIR: Move approval of first and second reading of Ordinance No. 2023-005, including emergency adoption, by title only, an ordinance ratifying the creation of an intergovernmental entity known as the Deschutes County Road Agency

CHANG: Second

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

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

CHANG: Move adoption of Ordinance No. 2023-005, an ordinance ratifying the creation of an intergovernmental entity known as the Deschutes County Road Agency

ADAIR: Second

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

**11. Approval of Resolution 2023-008, creating a new fund and increasing appropriations within the 2022-2023 Deschutes County Budget**

CHANG: Move approval of Resolution No. 2023-008, creating a new fund and increasing appropriations within the 2022-2023 Deschutes County Budget

ADAIR: Second

VOTE: ADAIR: Yes  
CHANG: Yes



DEBONE: Chair votes yes. Motion Carried

**12. Tiny Watts Solar Economic Development Loan Request**

Jen Patterson, Strategic Initiatives Manager, and Steve Curley, REDI Director, updated the Board on the economic development loan request from Tiny Watts Solar, a company which relocated to Redmond from Portland in April 2022 with three employees, including the husband and wife co-owners. Between May 2022 and February 6, 2023, Tiny Watts Solar added three more positions for a total of six employees.

Commissioner DeBone agreed it is good to be clear that the jobs brought to Redmond include the principals of the company.

Responding to Commissioner Chang, Curley said this program was intended to be flexible and the loan would not be unfair to previous applicants. Curley added that future loan requests could be related to business relocations and/or expansions.

Commissioner DeBone noted that EDCO conducts a due diligence review of each loan request. He appreciated the current applicant's trade sector status and hoped their business will continue to grow.

ADAIR: Move approval of granting an economic development loan of \$12,000 to Tiny Watts Solar which recognizes the creation of six new jobs in Redmond retroactive to April 2022

CHANG: Second

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

**13. Policy Revisions: General Administrative Policies 12, 13, and 16**

Stephanie Robinson, Grants & Operations Specialist, explained that following a compliance and audit review, ODOT recommended that the County update its ADA, Title VI and Record Retention policies to align with state and federal public transit program requirements. She reviewed the proposed revisions to the three policies.

CHANG: Move approval of recommended revisions to Deschutes County General Administrative Policies 12, 13, and 16

ADAIR: Second

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

**14. Consideration of Chair Signature of Document No. 2023-181, a Notice of Intent to Award Contract for the Supplying and Hauling of Crushed, Uncoated Rock for Chip Seal 2023 Contract**

Cody Smith, County Engineer, said following a call for bids for this project, two bids were received with the apparent low bidder determined to be Taylor Northwest LLC.

CHANG:            Move approval of Chair signature of Document No. 2023-181, a Notice of Intent to Award a contract for the supply and hauling of crushed, uncoated rock for the 2023 Chip Seal project

ADAIR:            Second

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

**15. Deliberations on the request to change the Comprehensive Plan designation of 59 acres in the 21400 block of Bear Creek Road from Agricultural to Rural Residential Exception Area with a corresponding Zone change from Exclusive Farm Use to Multiple Use Agricultural (Marken)**

Audrey Stuart, Associate Planner, reviewed the background information of this request, noting that one written comment was received after the close of the record.

ADAIR:            Move to acknowledge the receipt of an email from Richard Currie on February 25th, after the record was closed, and hold that the email is not a part of the record for this decision

CHANG:            Second

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

Stuart then presented the matrix of decision points before the Board.

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

The Board was in consensus that this property does not constitute agricultural land as defined by OAR 660-033-0020(1)(a).

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

Stuart reminded that the soils study was reviewed and approved by DLCD. The Hearings Officer recommended that this study could be relied on and is the best evidence available.

Commissioner Chang commented that this property has been farmed and still retains some water rights although some have been relinquished. He appreciated that the owner tried to farm for profit and was not able to.

The Board was in agreement that the site-specific soil study shows the property is predominantly Class VII-VIII soils.

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

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

4. Are the findings regarding suitability for farm use in the Hearings Officer decision for file CU-80-42, TP-596 relevant to this application?

Commissioner Chang said while this property has been farmed and has some agricultural potential, it is not conducive for farming. Adding it is located near the UGB, he stated his support for allowing more residential density than is permitted in the EFU zone. Will Groves, Planning Manager, said Bend is working to revise its UGB because its need for more housing is so great. He added that current rules would not preclude this type of rezone.

The Board was in agreement that the findings regarding suitability for farm use in the Hearings Officer decision for file CU-80-42, TP-596 are not relevant to this application.

5. 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?

The Board was in agreement that there is not 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. Commissioner DeBone asked if urban area reserves (UARs) can include resource lands. Groves responded that resource lands rank lower in priority for urban area reserves. Commissioners DeBone and Chang supported drafting a letter to the City of Bend to encourage UAR establishment.

6. Does the application require an exception to Statewide Planning Goal 14: Urbanization?

Commissioners DeBone and Adair were in agreement that this application does not require an exception to Statewide Planning Goal 14: Urbanization. Commissioner Chang said it does require an exception, but Goal 14 has been satisfied by the alternate findings of the Hearings Officer.

7. Has there been a change in circumstances since the property was originally zoned?

The Board was in agreement that there has been a change in circumstances since the property was originally zoned, most notably in terms of a site-specific soil study.

ADAIR: Move approval of the Hearings Officer recommendation of file nos. 247-22-000353-PA, 354-ZC pertaining to the request to change the Comprehensive Plan designation of 59 acres in the 21400 block of Bear Creek Road from Agricultural to Rural Residential Exception Area with a corresponding Zone change from Exclusive Farm Use to Multiple Use Agricultural (Marken)

CHANG: Second

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

Commissioner Chang advised partnering with the City of Bend on applications for rezones and Comprehensive Plan amendments with the goal of maximizing housing opportunities.

Commissioner DeBone was in favor of offering support to the City regarding establishing one or more urban area reserves.

Commissioner Chang said expanding the UGB expansion might work as a satisfactory approach as well.

Will Groves, Planning Manager, said staff will initiate a conversation with Bend to make sure the County's assumptions are up-to-date. He said another option might

be for the County to adopt an overlay for one or more areas to protect against the parceling of land that could render future density harder to achieve.

**16. Second reading of Ordinance No. 2023-001, 2023 Housekeeping Amendments to the Comprehensive Plan**

Kyle Collins, Associate Planner, reminded that the first reading of the ordinance was conducted on February 15<sup>th</sup>. If adopted today, the ordinance would take effect on May 30, 2023.

ADAIR: Move approval of second reading of Ordinance No. 2023-001 by title only, amending Title 17, Subdivision and Partition Ordinance, Title 18, Zoning Ordinance, Title 22, Procedures Ordinance of the Deschutes County Code, and Title 23, Deschutes County Comprehensive Plan to Incorporate Changes to State Law, and Provide Clarification of Existing Regulations, Procedures, and Policies

CHANG: Second

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

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

CHANG: Move adoption of Ordinance No. 2023-001, amending Title 17, Subdivision and Partition Ordinance, Title 18, Zoning Ordinance, Title 22, Procedures Ordinance of the Deschutes County Code, and Title 23, Deschutes County Comprehensive Plan to Incorporate Changes to State Law, and Provide Clarification of Existing Regulations, Procedures, and Policies

ADAIR: Second

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

**17. Second reading of Ordinance No. 2023-004, Amateur (HAM) Radio Text Amendments**

Nicole Mardell, Senior Planner, reminded that the first reading of the ordinance was conducted on February 15<sup>th</sup>. If adopted today, the ordinance would take effect on May 30, 2023.

ADAIR: Move approval of second reading of Ordinance No. 2023-004 by title only, amending Deschutes County Code Title 18, Chapter 18.116.290, to Streamline Establishment of Amateur Radio Facilities

CHANG: Second

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

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

CHANG: Move adoption of Ordinance No. 2023-004, amending Deschutes County Code Title 18, Chapter 18.116.290, to Streamline Establishment of Amateur Radio Facilities

ADAIR: Second

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

#### **OTHER ITEMS:**

- Commissioner Chang reported an additional Congressionally Directed Spending (CDS) request from NeighborImpact for \$2.5 million for its well repair and replacement program which serves residents in three counties.

Commissioners DeBone and Adair stated their approval of the letter of support for the CDS request from the La Pine Rural Fire Protection District as written.

CHANG: Move approval of Board signature of the letters dated March 1, 2023, supporting Congressionally Directed Spending requests from the City of Redmond, ODOT, NeighborImpact, Mosaic Medical and Heart of Oregon Corps

ADAIR: Second

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

- The Board reviewed the letter drafted to Governor Kotek via the Oregon Department of Emergency Management regarding managed camping options within one mile of the UGB, excluding certain lands.

ADAIR: Move approval of Board signature of the letter to Governor Kotek via the Oregon Department of Emergency Management regarding managed camping options, as edited to refer to urban reserve areas in addition to urban growth boundaries

CHANG: Second

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

- Commissioner Adair shared that the number of vehicles in Bend's safe parking program increased from eight to 12.
- Commissioner Chang reported that he and Commissioner Adair both testified on SB 644-2 this morning.

*The meeting was recessed at 12:21 pm, and reconvened at 1:00 pm.*

**EXECUTIVE SESSION:**

At 1:00 p.m., the Board went into Executive Session under ORS 192.660 (2) (d) Labor Negotiations. The Board moved out of executive session at 1:11 p.m and directed staff to proceed as discussed.

**ADJOURN:**

Being no further items to come before the Board, the meeting was adjourned at 1:11 p.m.

DATED this 22<sup>nd</sup> Day of March 2023 for the Deschutes County Board of Commissioners.

  
ANTHONY DEBONE, CHAIR

  
PATTI ADAIR, VICE CHAIR

**ATTEST:**

  
RECORDING SECRETARY

  
PHIL CHANG, COMMISSIONER