



BOARD OF COMMISSIONERS

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

FOR RECORDING STAMP ONLY

BOCC MEETING MINUTES

9:00 AM

WEDNESDAY February 14, 2024

Barnes Sawyer Rooms
Live Streamed Video

Present were Commissioners Patti Adair, Tony DeBone and Phil Chang. Also present were County Administrator Nick Lelack; Assistant Legal Counsel Kim Riley; and Executive Assistant Brenda Fritsvold.

This meeting was audio and video recorded and can be accessed at the Deschutes County Meeting Portal webpage www.deschutes.org/meetings.

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

PLEDGE OF ALLEGIANCE

CITIZEN INPUT:

- Ashley Schreiber spoke regarding fires in and around homeless encampments, and the harmful effects from secondhand exposure to fentanyl. Schreiber demanded transparency and accountability from the County with respect to the transitional housing program at 640 Wilson Avenue.
- Dorinne Tye expressed appreciation for the emergency declaration regarding fentanyl. On another subject, Tye said flight schools operating at Bend Municipal Airport are retaliatory and objected that responses to complaints are referred to the FAA. She listed harmful environmental effects from aviation operations and said these can and do result in human deaths.
- Tom Gugg said many people oppose the low-barrier shelter at 640 SE Wilson Avenue for persons on parole or probation, including level 2 and level 3 sex

offenders. He claimed a lack of appropriate public outreach, described discrepancies between the grant application which was submitted for this program and the program itself, and urged changing the plans for this property.

Commissioner Chang said Gugg may be confusing the Governor's emergency order for shelter and homelessness prevention with this specific program which was not submitted as a shelter project.

- Ryan Rudnick said of the two individuals who so far have been placed at the 640 Wilson facility, one of them has already caused disturbances in the neighborhood. He objected to using taxpayer funds to provide for criminals instead of law-abiding citizens and said even if the participants of this program are screened, one or more of them might yet reoffend. He said if this shelter is not converted to house women and children only, it should be moved—perhaps to a County-owned property in proximity to the jail.

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

1. Approval of Chair signature of Document No. 2024-047, a Notice of Intent to Award Contract for the Supplying and Hauling of Crushed, Uncoated Rock for Chip Seal 2024 Contract
2. Approval of Chair signature of Document No. 2024-049, a Notice of Intent to Award Contract for the Supply and Delivery of Asphalt Oil for Chip Seal 2024 Contract
3. Consideration of Board Signature on letter thanking Mike Kutansky and appointing David McDonald for service on the River Bend Estates Special Road District
4. Consideration of Board Signature on letter reappointing Danielle MacBain for service on the Behavioral Health Advisory Board
5. Consideration of Board Signature on letter appointing Sheldon Rhoden for service on the Project Wildfire Steering Committee
6. Approval of the minutes of the February 2, 2024 BOCC Legislative Update meeting
7. Approval of minutes of the BOCC January 24 and 29, 2024 meetings

DEBONE: Move approval of the Consent Agenda as presented

CHANG: Second

VOTE: CHANG: Yes

DEBONE: Yes
ADAIR: Chair votes yes. Motion Carried

ACTION ITEMS:

8. Potential Ground Lease Extension with Mountain View Community Development for the Redmond Safe Parking Program

Kristie Bollinger, Property Manager, introduced the request from Mountain View Community Development to extend its lease of County-owned property at SE 7th Street and SE Evergreen Avenue in Redmond for a safe parking program.

Rick Russell, executive director of Mountain View Community Development (MVCD), said MVCD is currently operating safe parking sites at seven different locations. Russell said these operations allow for the safe parking of vehicles which are temporarily housing numerous persons, including 19 minors—most of whom are elementary school age.

Heather Englestater relayed the positive experience she and her husband had in MVCD's safe parking program, sharing that now they are housed in an apartment in Prineville. She expressed gratitude for the program, which included assistance from a case manager, and said she is now volunteering as a former participant.

Continuing, Russell provided an overview of MVCD's safe parking sites and programs, confirming that these include participant oversight and case management services. He said contrary to concerns raised at the outset, the program operating at the 7th and Evergreen site has not resulted in increased calls to law enforcement. Generally, the program takes in older, disabled persons, or those in poor health, or younger people, some of whom have children. Russell concluded that Mountain View seeks a two-year extension of the ground lease and the authorization to add gravel to the property.

In response to Commissioner Chang, Russell said these sites serve persons who have between 1-30% of average median incomes. No communications have been received from the site's neighbors over the past six months and in fact, some neighbors have commented on the quiet nature of the program, which they had not anticipated. Russell said he was comfortable with allowing up to eight vehicles per location; more than that would require adding on-site management.

Commissioner DeBone stated his support for a one-year extension of the lease. Commissioners Adair and Chang supported extending the lease for two years as

requested and also allowing gravel to be brought in. Bollinger said staff will return with an amendment to the lease for the Board's formal approval.

Commissioner Chang suggested that the Fair and Expo consider contributing to efforts to relocate people who are camping on the County-owned property which is pending to be exchanged with the State, as that property transfer will directly benefit the Fair & Expo. Commissioner Adair said this matter is currently before the Fair Board.

9. Consideration whether to hear an appeal of a Hearings Officer's decision associated with the Oregon Department of Transportation's Lava Butte Trail Multi-Use Path Project

Caroline House, Senior Planner, presented a request that the Board hear an appeal of the Hearings Officer's decision associated with the Oregon Department of Transportation's ("ODOT") Lava Butte Multi-Use Path project which parallels Highway 97. House said if the Board declines to hear this appeal, the decision of the Hearings Officer will become the County's final decision on this matter.

Commissioner Chang stepped down from the dais after recusing himself from discussing or acting on this quasi-judicial matter due to potential bias resulting from his service on the Policy Board of the Metropolitan Planning Organization which submitted a letter supporting ODOT's preferred alignment for this path.

Continuing, House described the application submitted by ODOT seeking interpretation of the County's Zoning Code, maps and Comprehensive Plan to determine if the proposed multi-use path is permitted outright. After the Hearings Officer determined that the path is indeed permitted outright, Windlinx Ranch Trust filed an appeal. House shared seven key issues raised by the appeal, including the claim that the Hearings Officer's decision reverses a prior Board decision that the subject Highway 97 right-of-way is zoned F2.

House summarized reasons for the Board to hear the appeal as well as reasons not to hear it.

Commissioner DeBone spoke to the history of this matter, including the 1999 determination of the right-of-way zoning by the Board as cited. He found the decision of the Hearings Officer to be well-reasoned, therefore accepted it, and did not support hearing the appeal.

Commissioner Adair noted that the County's map shows this property zoned as Forest, yet the Hearings Officer says it is not. She asked for clarification on the status of the Board's 1999 decision.

House responded that the Hearings Officer determined that in 1999, the Board did not have the same information which is now available. As a result, the Hearings Officer determined that this property is zoned RR10.

Stephanie Marshall, Assistant Legal Counsel, stated her agreement that the decision of the Hearings Officer is well-reasoned and well-supported.

Commissioner Adair expressed reservations about not hearing the appeal. Commissioner DeBone said the weigh station is entirely within the right-of-way of Highway 97, which supports the Hearings Officer's determination that the proposed multi-use path is a Class III project.

DEBONE: Move approval of Board Order No. 2024-008 denying review of the Hearings Officer's decision in File No. 247-23-000302-DR
ADAIR: Second
VOTE: CHANG: (recused)
DEBONE: Yes
ADAIR: Chair votes yes. Motion Carried 2 - 1 - 0

Commissioner Chang returned to the dais.

10. Consideration to hear an appeal of a Hearing's Officer decision involving commercial activity in conjunction with farm use at 20520 Bowery Lane, Bend

Nathaniel Miller explained the application for a Conditional Use Permit for commercial activities in conjunction with farm use to establish a winery with associated uses. Following a public hearing last October, the Hearings Officer issued a decision approving the Conditional Use Permit. An appeal was filed by Toby Bayard seeking Board review of the application.

Miller said the property owner proposes to convert a portion of an existing accessory building into a tasting room and office space. The proposal also includes the conversion of an existing barn for wine production and storage. The approval would include the production of up to 2,000 cases of wine annually as well as hosting wine related events on the property, wine tastings, wine dinners, and other wine marketing events directly related to the sale and promotion of wine. No new buildings or structures are included in the proposal.

Miller concluded that the decision of the Hearings Officer placed numerous conditions on the allowed use.

Will Groves, Planning Manager, added that a number of those conditions of approval appear to be open to interpretation and thus could be argued. Because unclear conditions could place staff in the position of making discretionary determinations outside of a public process, staff recommends that the Board hear this appeal to allow for the refinement of the problematic condition language.

Commissioner Chang noted that the record contains the argument that the new Hunnell Road will create different access point opportunities which will relieve transportation stresses on the surrounding neighborhood; however, he believed that the alignment of Hunnell Road at its southern section remains in question. Miller referred a response on this inquiry to the Road Department.

Commissioner Chang asked to know how much of the property would be utilized to grow grapes to produce wine. Miller said the record does not specify this information, although the applicant has indicated that not all wine used or sold would be produced on-site.

Miller noted that the applicant has waived the 150-day clock on this matter.

DEBONE: Move approval of Board Order No. 2024-006, accepting review of Hearings Officer's decision approving a Conditional Use Permit for commercial activities in conjunction with farm use at 20520 Bowery Lane, Bend, and establishing the review will be heard *de novo*

ADAIR: Second

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

11. Oregon Health Authority grant agreement #PO-44300-00026008 for Behavioral Health Services

Holly Harris, Behavioral Health Director, reviewed the proposed intergovernmental agreement with the Oregon Health Authority to accept \$11,771,788 to fund community mental health, addiction treatment, recovery, prevention, and problem gambling services for the period of January 1, 2024 through June 30, 2025.

CHANG: Move approval of Chair signature of Document No. 2024-135, an agreement accepting grant funding from the Oregon Health Authority

DEBONE: Second

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

A break was announced at 10:30 am. The meeting resumed at 10:34 am.

12. Deliberations: Draft 2020-2040 Transportation System Plan Update

Tarik Rawlings, Senior Transportation Planner, presented a matrix to guide particular decisions of the Board with respect to the 2020-2040 Transportation System Plan (TSP) Update before adopting it. Rawlings stressed that the matrix can be amended to include other items the Board deems appropriate.

Upon the advice of Rawlings, the Board took up the second item in the matrix first.

2. Should the Board include a conceptual Community Connection multi-use pathway in the updated TSP between the City of Sisters and the Black Butte Ranch Resort community?

Rawlings noted that the Planning Commission recommended this reference be removed from the TSP.

Commissioner Chang emphasized that the County would not design, fund or maintain any of the proposed multi-use paths. He supported leaving references to these facilities in the TSP—without identifying specific alignments—as many people support having these. He added that the Sisters City Council unanimously voted to support this trail.

Commissioner Adair supported the recommendation of the Planning Commission, noting the large number of people who are not comfortable with this proposed trail.

Commissioner DeBone referred to previous discussion to include multi-use paths in the TSP, but not prioritize them.

Road Director Chris Doty commented that not including this project in the TSP would not preclude it from being constructed.

A majority of the Board was in consensus to include a conceptual Community Connection multi-use pathway in the updated TSP between the City of Sisters and the Black Butte Ranch Resort community.

Rawlings stated that the first decision point in the matrix—whether the Board should include a County-wide prohibition on multi-use pathways in the updated TSP based on proximity to farm and forest resource-zoned lands and wildlife habitat fragmentation—has now been nullified by the Board's decision on the second question.

3. Should the Board include a conceptual community connection multi-use pathway in the updated TSP between Baker Road and Lava Butte?

Rawlings referred to preferences stated by different persons and entities for locating this pathway on the west side or the east side of Highway 97. Commissioner Adair noted multiple fires in the area of China Hat since January 1st, saying that such impacts may be a good reason to site the path on the west side of the highway.

A majority of the Board was in consensus to include a conceptual community connection multi-use pathway in the updated TSP between Baker Road and Lava Butte with no specific alignment supported or referenced.

4. Should the Board support inclusion by reference of the BPRD Master Plan within the updated TSP, including a bridge connecting the Deschutes River Woods neighborhood to the west side of the Deschutes River?

A majority of the Board was in consensus to support inclusion by reference of the BPRD Master Plan within the updated TSP, including a bridge connecting the Deschutes River Woods neighborhood to the west side of the Deschutes River.

5. Should the Board include language in the updated TSP responsive to concerns regarding Local Access Roads in Special Road District #1, including replacement of a canal crossing on Island Loop Way?

A majority of the Board was in consensus to not include language in the updated TSP responsive to concerns regarding Local Access Roads in Special Road District #1, including replacement of a canal crossing on Island Loop Way.

6. Should the Board eliminate the columns labeled "Priority" from Table 5-6 and Table 5-7 of the drafted TSP document related to bicycle route and other community connections?

A majority of the Board was in consensus to eliminate the columns labeled "Priority" from Table 5-6 and Table 5-7 of the drafted TSP document related to bicycle route and other community connections.

7. Should the Board adopt ODOT's proposed language related to ODOT intersection changes outlined in S-9 and S-11?

Rawlings explained ODOT's recommended revisions which would 1) change the priority level for the US 20 / Powell Butte Highway Roundabout project from low to high; and 2) change the priority level for the US 20 / Locust Street Roundabout project from low to high.

A majority of the Board was in consensus to designate high priority for the Locust Avenue roundabout project and medium for the Powell Butte Highway roundabout project.

8. Should the Board adopt a citizen comment's recommendation to include a high priority category associated with Table 5.5 Project ID BP-3 related to 2nd Street/Cook Avenue sidewalk improvements in Tumalo?

County Engineer/Assistant Road Director Cody Smith explained this recommendation from the Planning Commission was based on one comment received from a citizen.

A majority of the Board was in consensus to include a high priority category associated with Table 5.5 Project ID BP-3 related to 2nd Street/Cook Avenue sidewalk improvements in Tumalo.

Commissioner Adair asked for clarity as to why staff had recommended that the Board re-open the record after a comment was received following its formal closure. Rawlings explained that more than one post-record comment had been sent directly to the Board with no opportunity for staff to divert these.

The Commissioners and staff expressed gratitude to the Planning Commission and the project consultant for their work on the update.

CHANG: Move approval of the TSP update with revisions as specified
DEBONE: Second

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

OTHER ITEMS:

- Commissioner Chang recapped his recent attendance at the National Association of Counties annual conference in Washington, D.C., which enabled him to visit with some of the County's Congressional delegation. Subjects discussed including funding and other support for affordable and workforce housing; how to steward groundwater; increased appropriations for the wolf livestock demonstration grant program; large solar energy facilities being sited on BLM lands; and behavioral health needs and funding.
- Commissioner Adair said the number of cattle is declining as prices are rising.
- Commissioner DeBone reported on the Sunriver-La Pine Economic Development meeting; the annual SLED luncheon which will take place on April 3rd; and the State Interoperability Executive Council meeting where the critical nature of maintaining radio communications during emergency events was discussed.
- Commissioner Adair reported on the Fair Board meeting and said the Fair is seeking volunteers for this year's event.
- Commissioner Adair shared that she met with Ashley Smith who works with women who are on parole.
- County Administrator Nick Lelack presented the annual dues invoice from the Association of Oregon Counties and sought Board approval. The Commissioners agreed on the tremendous value provided by AOC and all concurred in paying the required dues for the upcoming year as a worthy investment.

EXECUTIVE SESSION: None

ADJOURN:

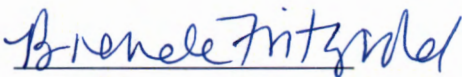
Being no further items to come before the Board, the meeting was adjourned at 11:55 am.

DATED this 20th day of March 2024 for the Deschutes County Board of Commissioners.



PATTI ADAIR, CHAIR

ATTEST:



RECORDING SECRETARY



ANTHONY DEBONE, VICE CHAIR



PHIL CHANG, COMMISSIONER