



BOARD OF COMMISSIONERS

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

FOR RECORDING STAMP ONLY

BOCC MEETING MINUTES

9:00 AM

WEDNESDAY February 7, 2024

Barnes Sawyer Rooms
Live Streamed Video

Present were Commissioners Patti Adair, Tony DeBone and Phil Chang. Also present were County Administrator Nick Lelack; Deputy County Administrator Erik Kropp; 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: None

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

1. Approval of Document No. 2024-027, a Notice of Intent to Award a contract for the Powell Butte Hwy/Butler Market Rd Intersection Improvement Project
2. Consideration of Board Signature on letters appointing Elizabeth Weide, Horace Ward, Heather Miller, and Melissa Steele for service on the Project Wildfire Steering Committee
3. Consideration of Board Signature on letters thanking Brandon Fogelman, Dan Galecki, Dave Gibson, and Doug Green for their service on the Project Wildfire Steering Committee

4. Approval of the minutes of the January 26, 2024 BOCC Legislative Update meeting

DEBONE: Move approval of the Consent Agenda as presented
CHANG: Second

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

ACTION ITEMS:

5. South County Groundwater Protection Update from the Oregon Department of Environmental Quality

Greg Svelund, Oregon Department of Environmental Quality (DEQ), said water samples have been collected in southern Deschutes County for many years due to concerns about groundwater quality, with tests showing that enough nitrate contamination exists to be a considerable problem in the decades to come. Svelund said although the ramifications may be in the future, this situation should be addressed now given the significant public health concerns.

Referring to requests from homeowners for assistance with repairing or replacing private septic systems, Svelund said DEQ partners with Craft3, a local nonprofit lender, to offer affordable loans for this work. Reduced rates and deferred payment options may be available for homeowners with lower incomes, and up to \$15,000 may be granted to eligible borrowers as part of the loan packages.

Todd Cleveland, Onsite Wastewater Manager, added that COIC and NeighborImpact have also offered funding for this kind of work.

Commissioner Chang asked what levels of nitrates are occurring, what levels constitute health concerns, and what negative physical effects could result from exposure to or ingestion of high levels of nitrates.

Sean Rochette, DEQ Onsite Program Manager, said the drinking water standard/limit is 10 mg of nitrates per liter. While many samples return a non-detect result, samples tested in some areas exceed the limit. Approximately 60 wells were sampled last year and another 40 are scheduled to be sampled this spring.

Noting that a continued slow migration of nitrates already in the system will someday impact wells which are not currently affected, Rochette said deeper wells are more protected. Health impacts from exposure include "blue baby syndrome" which infants are most susceptible to.

Commissioner DeBone agreed with the value of establishing a point in time sampling every ten years and looked forward to seeing updated numbers. Noting that Deschutes County has offered financial assistance to conduct sampling, he objected that samples are not being collected due to lack of resources. He emphasized that the County wants to protect groundwater and ensure that people have safe drinking water.

Commissioner Chang likened the presence of nitrates to the threat posed by a slow-moving train, stressing that nitrates currently in the ground are expected to contaminate drinking water sources in the future. Saying that even modern septic systems discharge nitrates into the environment, he encouraged the County to be an active partner with DEQ to address this issue and collaborate on solutions.

Responding to Commissioner Chang's question if variances are being given for people who build on shallow groundwater areas, Cleveland said some variances have been denied because conditions are too poor. Cleveland agreed that variances granted in sensitive areas result in additional nitrate loads--which then accumulate in the aquifer—although newer technology can reduce nitrate loads by 95%.

Commissioner Chang wanted to know how many variances are being granted, the process by which variances are approved, and how this opportunity might be withdrawn if it's determined inappropriate to grant more variances.

Identifying himself as the variance officer for southern Deschutes County, Rochette said he is receiving more applications for variances for lots which have wetter ground and more shallow groundwater, with variances being denied in the more extreme cases.

Commissioner Adair remarked that she grew up in Morrow County, where the nitrate level situation was ignored to tremendously negative consequences.

Commissioner Chang emphasized that the current problem is being worsened by existing septic systems which continue to add nitrates to the system. Rochette confirmed this, adding that the greatest detriment is from older existing systems which have not been retrofitted to achieve the 75% reduction in nitrate loads.

Cleveland said of the approximately 7,000 systems currently in use, about 280 have been retrofitted since 2006. The longer that older systems discharge nitrates into the ground, the longer the effects of that loading will have to be dealt with.

Commissioner DeBone agreed with the need to protect groundwater and that the County will allocate financial resources towards those efforts via the Groundwater Protection Fund. He noted that Deschutes County is following the laws of the State as defined by DEQ.

Svelund identified three necessary courses of action moving forward: a community wastewater system; a community drinking water system; and enhancing funding opportunities to replace older systems. He spoke to the need for a coalition of partners, including OHA, and emphasized the importance of planning for longer-term actions.

Discussion ensued regarding the possible pursuit of a Goal 11 exception and the fact that the County was previously unsuccessful in securing such an exception.

Commissioner Adair said at an estimated cost of \$40,000 to retrofit or replace each existing system, the total cost would be \$280 million which may not be financially feasible.

Peter Gutowsky, Community Development Director, referred to a summary of groundwater protection efforts taken thus far and asked to know the Board's expectations as to who will lead these efforts going forward. He agreed that securing a Goal 11 exception is difficult and was not sure this could be accomplished. Saying that in the event of a structural addition or a system failure, CDD can impose requirements on a property owner, he said the Board transferred the County's groundwater protection program to DEQ in 2008 or 2009. He stated his agreement that this problem must be addressed so the consequences are not irreversible.

Commissioner Chang said it might be worthwhile to pursue a modified Goal 11 exception.

Commissioner DeBone said the sewer system in La Pine proves that progress is being made. He supported DEQ taking the lead on these efforts.

Svelund noted that DEQ's authority is fairly limited and restricted to approving or denying variances. Saying that the contamination is already in the ground and

not easy to remove, he concluded that drinking water systems and sewer systems are local processes.

In response to Commissioner DeBone, Cleveland said there is no real regulation of private drinking water wells, although community wells are regulated by OHA. He said if drinking water is contaminated, perhaps a health hazard could be declared and sewer then required.

Cleveland said sites have returned positive nitrate tests ranging from 3 mg per liter to 180 mg per liter. He explained how risk assessments are conducted, saying that some areas are very low risk whereas some are moderate to high risk. In some areas, it's been determined that the drinking water is already affected.

Bob Baggett, DEQ on-site wastewater specialist, stressed that DEQ is not a public health agency. Adding that what is needed is an environmental health assessment from a public health perspective, he advised that the County, as the local public health authority, work with OHA to realize this assessment.

Commissioner Chang supported drafting a letter requesting that OHA conduct an environmental health assessment.

Responding to Commissioner DeBone, Svelund confirmed that DEQ would be interested in partnering on these efforts.

In response to Commissioner Adair, Svelund said the latest testing data will likely be available in mid-June, at which time another meeting could be scheduled to discuss next steps.

6. First reading of Ordinance 2024-003 – Miller Pit Plan Amendment and Zone Change

Audrey Stuart, Associate Planner, presented a request to change the Comprehensive Plan designation of approximately 65 acres located south of Bend on Knott Road from Surface Mine to Rural Residential Exception Area and simultaneously change the property's zoning from Surface Mining to Multiple Use Agricultural.

Commissioner DeBone summarized that this matter does not require a public hearing before the Board because no appeal was filed and it involves neither resource lands nor an exception to a Statewide planning goal. Stuart confirmed this, adding that the decision of the Hearings Officer to approve these changes was not appealed.

Commissioner Chang said while he had no reason to oppose the rezone of this property, he disagreed with the piecemeal way in which rezones are processed instead of being done comprehensively.

CHANG: Move approval of first reading of Ordinance No. 2024-003 by title only
DEBONE: Second

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

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

7. Community Navigator Pilot grant from the Oregon Health Authority

Kara Cronin, Behavioral Health Program Manager, explained the request to apply for a \$1,000,000 grant for a new State-funded Community Navigator program from April 2024 through June 2025. The primary goal of the program is to reduce recidivism rates for persons discharged on Aid & Assist orders from the Oregon State Hospital--especially for those at risk of being homeless.

Responding to questions, Holly Harris, Behavioral Health Director, said the Health Department expects that this funding will be ongoing, but it is not guaranteed. Deschutes County was asked by the State to participate in this pilot program.

CHANG: Move to authorize the submittal of an application for a Community Navigator Pilot grant from the Oregon Health Authority
DEBONE: Second

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

Chair Adair announced that item 12. would be taken up before the remainder of the agenda items.

12. Consideration of Declaration of a Local State of Emergency: Fentanyl Public Health and Safety Crisis

Commissioner Adair shared that after she proposed declaring a state of emergency regarding the distribution and use of fentanyl in Deschutes County, the City of Redmond issued a letter, signed by the mayor and all council members, supporting the emergency declaration.

Commissioner Chang asked if the goal of the emergency declaration is legislative advocacy and suggested that a proclamation might be better suited to such an aim. He said the emergency declaration issued in Multnomah County identified new initiatives to be undertaken and allocated new resources to those initiatives.

Commissioner Adair said attention must be brought to bear on the unintended consequences and highly negative effects of Measure 110.

DCSO Sergeant Kent Vander Kamp shared his assignment to the Central Oregon Drug Enforcement Team, a federally-funded multi-jurisdictional task force. Vander Kamp said the distribution and use of fentanyl in Central Oregon has grown, with the result that fentanyl is the leading cause of death for people between 18 and 49. He explained that fentanyl, which is classified as an opioid, is available in pill, powder and liquid forms. It is very easy and cheap to manufacture, costing between three and five cents a pill to produce—those pills are then sold for \$1.50 in metropolitan areas and between \$3 and \$5 in Central Oregon. Sometimes, these pills are advertised and sold on social media, then mailed to someone's home.

Saying the number of overdoses investigated has increased tenfold, Vander Kamp spoke to the burden on law enforcement, EMTs and hospitals. In addition, some people who are desperate to feed their addictions engage in crimes such as burglaries, shoplifting and car thefts. He reported three overdoses in Bend last night—all three people were saved—and said those who ingest fentanyl unknowingly are essentially being poisoned.

In response to Commissioner Chang, Vander Kamp said the County could do more to help to spread the word that many pills which are sold online or on the street are counterfeit. Adding that DCHS does a great job of trying to help persons who are addicted, he said more investigators and detectives would also help to address problems which result from fentanyl.

Commissioner DeBone agreed that raising public awareness is the key to the emergency declaration. He shared an email sent from DCSO Captain William Bailey which reported escalating situations and various arrests made for the distribution of fentanyl and other drugs.

Commissioner Adair said horse tranquilizer is also showing up on the street, and Narcan cannot reverse its effects.

Commissioner DeBone expressed appreciation for the support from the City of Redmond. He spoke to insufficient resources at the State Medical Examiners'

Office, which often result in the significant delay of official overdose determinations, and supported the allocation of more resources to this work.

Commissioner Chang agreed that a crisis is happening and said he would vote in favor of an emergency declaration which included new resources or new initiatives. In the absence of those, however, there are other ways to raise community awareness and advocate for legislative changes. He concluded that the proposed declaration is premature.

DEBONE: Move approval of Board Order No. 2024-007 declaring a local State of Emergency due to the public health and safety crisis resulting from fentanyl distribution and use

ADAIR: Second

VOTE: CHANG: (abstained)
DEBONE: Yes
ADAIR: Chair votes yes. Motion Carried 2 – 1 - 0

Commissioners Adair and DeBone read the “Whereas” paragraphs of the order into the record.

Commissioner DeBone voiced agreement that now is the time to acknowledge this situation is a crisis, and apply pressure to address it.

Commissioner Chang encouraged consideration of actions that can be taken beyond making statements.

Commissioner Adair referred to the existence of resources to combat fentanyl addiction, including Ideal Options and programs and services offered by the County's Health Services department.

8. Grant application to the Office of Developmental Disabilities Services for an ARPA Emergency Response grant

Paul Patridge presented a request to apply for \$249,002 in American Rescue Plan Act (ARPA) funding from the Oregon Department of Human Services' Office of Developmental Disabilities Services to help clients prepare for future emergency situations. He explained this grant would enable IDD to assist its clients in increasing preparedness and independence and decreasing reliance on first responders or other professional personnel during emergency situations.

DEBONE: Move to authorize the submittal of an application for an ARPA Emergency Response grant from the State's Office of Developmental

CHANG: Disabilities Services
Second

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

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

Tarik Rawlings, Senior Transportation Planner, asked if the Board wished to conduct its deliberations on the draft Transportation System Plan Update, or take those up next week.

Responding to Commissioner Adair, Rawlings confirmed that additional comments were received after the Board re-opened the record until January 31st.

County Counsel Dave Doyle added that any comments which may be received by the Board on this matter after January 31st should not be considered.

Commissioner Chang said while he serves on the Board of the Metropolitan Planning Organization, which submitted comments on the update of the TSP, this does not disqualify him from participating in these deliberations or subsequent Board action on this matter.

CHANG: Move to continue deliberations on the draft 2020-2040
Transportation System Plan Update to February 14, 2024
DEBONE: Second

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

A break was announced at 11:23 am. The meeting resumed at 11:27 am.

10. Discussion and Possible Action on County ARPA Funds for CHRO RFP Process

Erik Kropp, Acting County Administrator, reviewed that at its annual retreat last week, the Board discussed how to allocate \$2 million in American Rescue Plan Act (ARPA) funds which have been set aside to address unsheltered homelessness. Noting the proposal is that the Coordinated Homeless Response Office (CHRO) issue a call for RFPs to address unsheltered homelessness and unsanctioned encampments, Kropp presented several decision points for the Board's consideration, first asking if the Board wishes to review the compiled list of

publicly owned properties where a sanctioned camp might be sited. This list includes publicly-owned properties and the privately-owned Gales property; in addition, an entity responding to the RFP could propose the use of other privately-owned property for consideration.

Commissioner DeBone sought clarity on which entity is leading this effort and stated his support for CHRO taking the lead.

Responding to Commissioner Chang, Kropp said to avoid the rejection of a proposal which puts forth a site for a managed camp that the County does not support, the County could review the list and determine at the outset which sites it would not consider for this use.

Commissioner Chang wondered if the County should award additional points to projects that address areas of the most immediate need such as Juniper Ridge and the Redmond property proposed to be swapped for State-owned property.

Commissioner DeBone said the CHRO Board should make these decisions, and he wanted to empower them to make the best choices.

Kropp confirmed that any proposed projects would have to be confirmed to be eligible for ARPA funds by the Finance Department.

Discussion ensued of whether to allocate \$1.5 million of ARPA funds to this effort at this time or the full available \$2.0 million.

DEBONE: Move to make \$1.5 million of ARPA funding available for the described RFP process to address unsheltered homelessness and unsanctioned encampments

ADAIR: Second

VOTE: CHANG: No

DEBONE: Yes

ADAIR: Chair votes yes. Motion Carried 2 - 1

Commissioner Chang stated his support for making the full \$2 million ARPA set-aside available for this effort at the current time.

11. Review Draft Presentation for Annual State of South Deschutes County Breakfast

The Commissioners directed edits to the draft presentation for the Annual State of South Deschutes County breakfast on February 27th.

OTHER ITEMS:

- Jen Patterson sought direction regarding a possible application for a Future Funds grant from Visit Central Oregon. In light of timing constraints, the Board was in consensus to not submit an application for this grant.
- Patterson referred to the County-owned site on Drafter Road in La Pine which has been identified as a potential location for a campground and asked the Board's interest in proceeding with an RFP for a private/public partnership. A majority of the Board agreed to direct staff to proceed with drafting an RFP. Commissioner Chang spoke to the need to be transparent about complexities associated with developing this property as a campground, including transportation infrastructure concerns and the fact that the City has not expressed support.
- HB 4140, SB 1587 and SB 1511 will be discussed at the Board's Legislative Update meeting on Friday.
- Patterson reported that the La Pine Rural Fire District seeks a letter supporting its request for Congressionally-directed funds for a ladder engine. Commissioners Chang and DeBone will sign a letter supporting non-designated funding sources for this acquisition; Commissioner Adair will not due to the large federal deficit.
- Whitney Hale, Deputy County Administrator, invited feedback on a draft press release regarding the Board's declaration of an emergency with respect to fentanyl.
- Commissioner DeBone said the intergovernmental agreement for the CORE3 organization is in the works.
- Commissioner DeBone attended AOC meetings in Salem on Monday and concurrently spoke with various legislators and the County's lobbyist Doug Riggs.
- Commissioner Chang announced that the Deschutes Cultural Coalition has asked him to serve on its Board.
- Commissioner Chang reported on the recent Public Health Advisory Board meeting where the Medical Examiner and EMS modernization bills were discussed along with the extremely high case level of those assigned to conduct environmental health inspections for food carts and other operations.
- Commissioner Chang reported on an open house hosted by ODFW where the decline in mule deer population was attributed to poor/inadequate nutrition and habitat fragmentation and loss.
- Commissioner Adair spoke with Representative Breese-Iverson about funding needed for transportation improvements in the area of CORE3 and Oasis Village; said total consumer debt is now over one trillion dollars; and shared that Jessica Viera, a member of the Behavioral Health Advisory Board, has expressed interest in working to secure grants.

EXECUTIVE SESSION:

At 12:39 pm, the Board recessed into Executive Session under ORS 192.660 (2) (h) Litigation and ORS 192.660 (2) (e) Real Property Negotiations.

The Board exited Executive Session at 1:39 pm to direct staff to proceed as directed.

ADJOURN:

Being no further items to come before the Board, the meeting was adjourned at 1:40 pm.

DATED this 6th day of March 2024 for the Deschutes County Board of Commissioners.



PATTI ADAIR, CHAIR

ATTEST:



RECORDING SECRETARY



ANTHONY DEBONE, VICE CHAIR



PHIL CHANG, COMMISSIONER