



For Recording Stamp Only

Deschutes County Board of Commissioners
1300 NW Wall St., Bend, OR 97701-1960
(541) 388-6570 - Fax (541) 385-3202 - www.deschutes.org

MINUTES OF BUSINESS MEETING
DESCHUTES COUNTY BOARD OF COMMISSIONERS
WEDNESDAY, JANUARY 13, 2016

Commissioners' Hearing Room - Administration Building - 1300 NW Wall St., Bend

Present were Commissioners Alan Unger, Tammy Baney and Anthony DeBone. Also present were Tom Anderson, County Administrator; Erik Kropp, Deputy County Administrator; Dave Doyle, County Counsel; Will Groves, Peter Gutowsky and Nick Lelack, Community Development; and about fifteen other citizens. No representatives of the media were in attendance.

1. CALL TO ORDER

Chair Alan Unger called the meeting to order at 10:00 a.m.

2. PLEDGE OF ALLEGIANCE

3. CITIZEN INPUT

None was offered.

CONSENT AGENDA

Before the Board was Consideration of Approval of the Consent Agenda.

BANEY: Move approval.

DEBONE: Second.

VOTE: BANEY: Yes.

DEBONE: Yes.

UNGER: Chair votes yes.

4. Board Signature of a Letter Appointing Jimm Burton to the Deschutes County Budget Committee, through December 31, 2018.
5. Board Signature of a Letter Reappointing John Morter to the Panoramic Access Special Road District Board, through December 31, 2018
6. Board Signature of a Letter Reappointing David Engeman to the Board of Cascade View Estates Special Road District, through December 31, 2018
7. Board Signature of Minutes:
 - Work Sessions of December 21 and 28, 2015 and January 4, 2016
 - Business Meetings of December 21 and 28, 2015 and January 6, 2016
 - Continued Public Hearing on a Goal 11 Exception Proposal, in La Pine, January 6, 2016

CONVENED AS THE GOVERNING BODY OF THE 9-1-1 COUNTY SERVICE DISTRICT

8. **Before the Board was Consideration of Board Signature of Document No. 2016-056, An Intergovernmental Agreement with the Oregon Department of Transportation Awarding a Grant for Radio Communications System Interoperability.**

Steve Reinke provided an overview of the agreement, which is an award from the State to help with enhancing the funding needed for radio communications with responders. It is a grant with no match required. The Commissioners acknowledged that the County is an important partner in this undertaking.

BANEY: Move Board signature of the agreement.

DEBONE: Second.

VOTE: BANEY: Yes.

DEBONE: Yes.

UNGER: Chair votes yes.

9. Before the Board was a Public Hearing and Consideration of Board Signature of Order No. 2016-003, regarding Initiating Formation of a Deschutes County Chapter 451 Service District for Emergency Communications Services; Initiating Withdrawal of Properties Currently in the Emergency Communications Services District formed by Deschutes County 9-1-1 County Service District.

Chair Unger convened the public hearing, at which time Mr. Reinke gave an overview of the Order.

Mr. Reinke explained that this process started in late 2013 with the stakeholders. They have reviewed the needs of 9-1-1 and the responders, including replacement of the radio system that has reached end of life. A decision and recommendation was developed by the users to seek out a new system that works for all partners. It was decided that it would work best under the guidance of the 9-1-1 District.

The radio systems have needed to be replaced for years, as they are over fifteen years old. The vendor no longer manufactures parts or provides service for this system. They have to replace the system. The consultant report done in mid-2014 said the cost would be \$13 million. They investigated ways to reduce this cost without sacrificing quality. The result is the new system would be about \$6.5 million and they are partnering with the State to help with coverage.

The District recognizes that there has been a good job of banking funds for this replacement to be able to pay for the radio infrastructure, but what the District does not have is a mechanism for maintaining the system and eventual replacement. The Order does not allow the current funding rate to be raised without dissolving the old District and creating a new one.

The requested amount covers the replacement of the current levy. It is only .063 more than what is already levied. This gives predictability and funding into the future. They have committed to only levy the amount of the .425 cents that is needed. The partners will weigh in on whether this covers the needs of the District. The current combined rate would be used for the first two years, and in fiscal year 2019 and beyond they will levy only what is needed.

Tom Anderson feels this was a good explanation. The .425 is only a 3 cent increase over the previous operating levy. At that time it was approved at .39 cents but they only went to 36 cents. A careful analysis has been done and will be levied in the future.

Commissioner DeBone said that there are citizen members and representatives of all the agencies that need 9-1-1 services. The Commissioners are the governing body of the District.

Commissioner Baney is very supportive and noted that there have been a lot of efficiencies shown. It is a much different District than in the past, being stable and with the support of all agencies. There have been a lot of spirited conversations to come to what is needed to protect the public. She is very comfortable with where they have arrived.

The user board and each agency know that the public would lose if these agencies cannot work together. She has heard from a few people that this is going to the Sheriff or other departments, which is not the case, so some education is needed. Each user board member would have to provide their own dispatch if this was not in place. She will do what is necessary to educate the public on this issue.

Mr. Reinke stated that some people think that 9-1-1 is part of a law enforcement district or fire district. It is important to let people know this is a separate and distinct entity that works with all of the agencies to support them in the field.

Chair Unger noted that 9-1-1 operators have very difficult work, and it is hard to recruit the right people. Mr. Reinke said this is an industry-wide problem. These people need to be highly trained in a stressful situation. They need the best possible system to make them more efficient. The stability of the District and compensation help to attract the right staff. They appreciate that they are able to be fully operational and have funding, but if a levy that has to be undertaken every five years fails, this jeopardizes the operation overall. Permanent funding would help them to better perform their mission.

Chair Unger asked for some of the representatives of the agencies to speak.

Larry Langston spoke on behalf of the Bend Fire Department, Bend Police and the Bend City Council. They appreciate the Board's attention to this. When their officers are in the field, it does not work well if there is not good connection through 9-1-1. This gets them out to the public faster, which is very important. They appreciate the support in helping get this before the voters.

Roger Johnson of the Sisters-Camp Sherman Fire Department said they support this measure. It is a critical link, and the first connection in an emergency. Operators can often provide lifesaving information while the response is underway. Having a dependable communications system helps fire personnel stay informed. In western Deschutes County, some areas do not have good radio coverage and this would help enhance this and improve their ability to serve.

Dave Tarbet, Redmond Police Chief, appreciates the thoroughness of this process. Permanent funding is critical for all the agencies, citizens and visitors. The radio system is critical because they also need to plan ahead to replace it down the road without having to come up with a lot of money at that time. He feels the small amount requested is very important.

Mr. Reinke noted that this is the first of two public hearings, and he appreciates the support. They hope to provide a higher level of service to the public and offer better operational support from the dispatchers. These people are very talented, but permanent funding will have additional dedicated operators to be more efficient, including monitoring ground operations for fire incidents or major events. Part of this covers infrastructure and long-term needs.

Larry Fulkerson, citizen, provided a letter to the Commissioners which he read at this time, offering his support for this plan after watching what the District has done over the past few years. He originally objected to a levy but after being involved, has decided that the requested amount is appropriate, and he has a lot of faith in what the District has done and plans to do. *(A copy of the letter is attached for reference.)*

Chair Unger thanked Mr. Fulkerson for his input, and said he is gratified having an interested citizen involved at this level.

Being no further testimony offered, the hearing was closed.

There is a separate public hearing scheduled for February 17, and the Order provides for this. Commissioner DeBone said it is important to support the next generation of radios, and the needs of the agencies and the public. Almost all meetings are open to the public and citizens are encouraged to attend. Commissioner Baney added that they are a better County government because of citizen involvement, and she is thankful for it.

BANEY: Move Board signature of Order No. 2016-003.

DEBONE: Second.

VOTE: BANEY: Yes.

DEBONE: Yes.

UNGER: Chair votes yes.

10. Before the Board was a Public Hearing on a Supplemental Budget Adjustment for the 9-1-1 County Service District; and Consideration of Board Signature of Resolution No. 2016-001.

Chair Unger opened the public hearing. Wayne Lowry said that this recognizes some grant revenue that was discussed today, and makes some adjustments in the equipment reserve fund to carry this into the current year. Chair Unger clarified that this is taking reserve funds to help with the radio system.

Commissioner Baney stated that they were looking at \$13 million not that long ago, and is grateful that they have worked towards partnering to reduce this cost significantly. This does not happen just by chance. Commissioner DeBone said that \$6.5 million is still a big number, but it is being shown that it is needed. Mr. Reinke noted that it is helpful that the State has been very cooperative, as it benefits them as well as the local agencies.

Being no testimony offered, Chair Unger closed the public hearing.

DEBONE Move Board signature of Resolution No. 2016-001.

BANEY: Second.

VOTE: BANEY: Yes.

DEBONE: Yes.

UNGER: Chair votes yes.

11. Before the Board was Consideration of Approval of Weekly Accounts Payable Vouchers for the 9-1-1 County Service District in the Amount of \$71,298.742.

BANEY: Move approval, subject to review.

DEBONE: Second.

VOTE: DEBONE: Yes.

BANEY: Yes.

UNGER: Chair votes yes.

**CONVENED AS THE GOVERNING BODY OF THE EXTENSION/4-H
COUNTY SERVICE DISTRICT**

- 12. Before the Board was Consideration of Approval of Weekly Accounts Payable Vouchers for the Extension/4-H County Service District in the Amount of \$5,114.78.**

DEBONE: Move approval, subject to review.

BANEY: Second.

VOTE: DEBONE: Yes.

BANEY: Yes.

UNGER: Chair votes yes.

**RECONVENED AS THE DESCHUTES COUNTY BOARD OF
COMMISSIONERS**

- 13. Before the Board was Consideration of Approval of Weekly Accounts Payable Vouchers for Deschutes County in the Amount of \$1,474,900.41.**

DEBONE: Move approval, subject to review.

BANEY: Second.

VOTE: DEBONE: Yes.

BANEY: Yes.

UNGER: Chair votes yes.

ACTION ITEM

- 14. Before the Board was a Public Hearing on an Application for a Declaratory Ruling regarding a Maintenance Agreement (Dowell/Kuhn).**

Chair Unger opened the public hearing, and Peter Gutowsky gave an overview of the item. He asked the Board if they had any conflicts of interest, or issues of ex parte contact or bias to disclose.

Commissioner Unger said that Mr. Kuhn reached out to him when he first took office as Commissioner, and he did have a site tour of the property. He does not feel he is biased.

Commissioner Baney said she has been serving as Commissioner since 2007, and there have been various meetings and other times since then regarding this issue where she was present. She might have met a couple of times with Mr. Kuhn, but what was discussed was already in the record. She does not feel she has any bias or conflicts of interest. She has been near the property but has not toured it.

Chair Unger said he started as Commissioner in January 2009 and is familiar with the situation since then. It was an issue for a long time before then. He understands the relationship and met with Mr. Kuhn and staff at times. He feels that he can make a fair decision. He also has been near the property but has not been on it.

No challenges were offered from the public.

Mr. Gutowsky gave a PowerPoint presentation with the recent history regarding the appeal. He entered the case file into the record, and provided a transcript of the last hearing, and documents submitted by Mr. Kuhn. This information is available at this time, but most had already been made available to the Commissioners.

Mr. Gutowsky gave an overview of the history of the property. There are three parcels: one owned by the Kuhns, one owned by the Dowells, and one that is held by both as open space. The Hearings Officer did a good job of summarizing the land use history of the property in her decision.

The main question relates to homeowners' agreement and maintenance of the jointly-owned property. This has been in court and to LUBA. The Dowells' requested building permit was a violation of a 1980 condition of approval because the homeowners' agreement was not in place. The Kuhn and Dowell dwellings have both been found to not be lawfully established until this agreement is recorded. Since then there have been numerous discussions about what is appropriate in a document to satisfy this requirement. The parties have failed to agree on the wording.

The Hearings Officer in June 2014 came up with findings regarding several issues relating to the cluster development and the agreement. Both parties were required to sign this document and a maintenance agreement, but this has not occurred for a variety of reasons.

About a year later, the Dowells stayed their appeal of this decision in an attempt to mediate the matter. County Counsel, staff and others participated. Ultimately these mediation attempts were not successful, so in May 2015 the Dowells reactivated their appeal. They asked the Board to declare the provisions that might be acceptable, whether a third party can be used, and other issues regarding the open space parcel.

It is uncertain whether the 150-day time limit applies to this declaratory ruling, but he would like the applicant to address this more specifically in case the timeline should be tolled, just to be clear. David Doyle said they have agreed that they will extend it at least sixty days from this date. It is unclear whether there is a 150-day requirement in this unique type of case.

Mr. Gutowsky said that the Board needs to affirm, overturn or modify the Hearings Officer's decision regarding maintenance of the open space parcel and other issues.

The hearing can be continued to a date certain, or the Board can close the hearing and allow for rebuttal time, or close it and deliberate now.

Chair Unger said that there was only one citizen form submitted for testimony, so he asked for any others. He requested that both sides agree to 45 minutes each for testimony. Sharon Smith, representing the Dowells, said this is appropriate for them, and will include her PowerPoint presentation and time for questions or rebuttal within the 45 minutes.

Ms. Smith said she would go into more depth on the situation. The open space parcel is jointly owned. It was approved as a cluster development in the late 1970's and in 1980. Things were done differently then, as land use was new. It was never appealed at the time, so they have the decisions that were done then. Today they must interpret the decisions made then, decades ago.

A written agreement was required relating to the common property. The developer sold the properties prior to doing any of this, but did record land use restrictions in 1987 which were meant to perfect this situation, but they addressed the entire property and not just the commonly owned property. Some was very specific regarding dogs and fencing. The County had deemed that this was acceptable.

Subsequently, the County decided that the deed restrictions did not satisfy the conditions. In 2002, a Circuit Court decision said that costs involved in this agreement would be shared equally. The parties have established separate accounts for this and pay separately. In 2010, an agreement was deemed to be acceptable to the County, and this was confirmed by LUBA, but the owners have to be parties to the agreement and would not settle. Prior adjudications do not really provide guidance on what the terms ought to be, and the parties do not seem able to agree on even minimal standards.

They are looking for resolution to this long-term dispute. There were attempts made to settle this, but those have been unsuccessful. Initially, the Kuhns developed what they said was an acceptable agreement. It said that the Dowells would give the open space to the Kuhns, and that there would be no dogs, hunting or livestock on the properties.

The Kuhns wanted some vague conditions that were difficult to define, such as respecting the solitude of others, the use of exterior lights, the use of power tools and other issues. Some negotiations were offered after this, with clarifying language, including incorporating the deed restrictions into the same document, and replacing subjective language with language that is clearer.

One would mean giving the open space to the Kuhns, so they would have ownership along with maintenance responsibilities. Another is the parties owning the open space jointly. They reached an impasse when the Kuhns said that the Dowells should sell their own property to the Kuhns at what the Dowells felt was a below-market rate.

The Dowells are open to either an agreement with the Kuhns or the County, including the first option, giving up their ownership in the open space. Joint ownership may result in ongoing disputes. They are also open to an agreement with just the County.

The declaratory ruling decision determined that they inherited all the obligations of the developer, and could enter into a conditions of approval agreement. The requirement of the agreement is to address how the natural resources and wildlife habitat are maintained on the jointly owned property.

Part of the agreement would clarify physical maintenance, payment of taxes and how to resolve disputes.

The first assignment of error was that the maintenance agreement was to preserve open space values and vegetation maintenance. The applicant feels is supposed to be directed at maintenance, not open space values which can mean different things to different people.

There are also two separate sets of standards for cluster developments. Deed restrictions provide the open space limitations such as wildlife friendly fencing, no hunting and so on.

The maintenance agreement needs to address issues related to property maintenance, taxes and costs. This should fall under reasonable and generally applicable law.

The Dowells also propose the expense and maintenance be split, and limit maintenance of the common property to what is required, and not for enhancement. Cost allocation should be equal. There are options if this is not done.

Dispute resolution provisions are not essential but the County can include this. There could be a mediation provision or arbitration requirement.

Maintenance standards should include the basics of most such agreements, such as compliance with noxious weed control, and hazardous fuels requirements.

The Hearings Officer was erroneous in stating that open space is exclusively for wildlife values. Open space is used for a number of things in the County, and Code does not limit this to just wildlife values.

The third assignment of error is that the agreement must be signed by both parties. She said that the Planning Director could enter into this as well. A third party does not have to hold an ownership interest in the properties, but a maintenance agreement is needed. There could be a third party involved. If there was no joint ownership of the property, or if it was transferred, an agreement would not be needed at all.

The Hearings Officer said that the interest in open space can't be severed from the parties. However, nothing in PL-15 imposes this obligation. It does not have to be commonly owned. Otherwise, this would mean that one party cannot convey the property to the other or even to a conservation entity.

They request that the Board find that if this not dedicated exclusively to wildlife habitat, it doesn't have to be just the Kuhns and Dowells, and that the maintenance agreement can be simplified regarding taxes, maintenance expenses and a dispute mechanism; and the Planning Director can enter into a conditions of approval agreement with the two parties or separately with each. This should satisfy condition of approval #2.

The Board had no questions at this time.

Ms. Smith said the applicant agrees that the 150 days is not applicable but will extend it for another sixty days anyway. They requested keeping the record open for written testimony and she suggested a week for additional information and another week for rebuttal.

Chair Unger said there is one other party who wishes to testify after Mr. Kuhn does.

William Kuhn testified that he recommended the Board not hear this, but it has allowed him to complete a documentary film that he and his wife made to speak to the basic issues. He feels they are supposed to be specific and does not know if 45 minutes is adequate to do this. There are issues that go back forty years and he feels that he should have more time. He will attempt through this film to do an overview, but he wants to get down to the specifics to make sure the Board understands the questions that they need to answer.

Chair Unger said that, to be fair, the Board can limit the time and ask for other information to be offered in writing. Mr. Kuhn stressed that he does not feel this amount of time will be adequate.

At this time, a video developed by Mr. Kuhn was presented to the Board, dating from before they moved onto the property, and demonstrating their commitment to making sure the property as a whole would be cared for as they felt it should be.

They were agreeable to the hand-written restrictions discussed at the time with the then owner of the property. They met the owner of the other property when they began building. The two residences were to be built close together and close to the road to mitigate any impacts to wildlife. The County supported this. They wanted the people who lived there to have as little impact on wildlife and the land as possible.

There was an agreement with the Dowells so they could have power to the utility pole, enabling them to build within 400 feet of the road. Neither could be there if they had not agreed to these limitations. There would be an easement for the utilities to where the Dowells were to build, but they built elsewhere, Mr. Kuhn feels to get a better view. Mr. Kuhn said they were allowed to build where they were not supposed to, but the Kuhns had to build exactly where the County said they could.

All this time, there have been issues of garbage on the grounds, and other misuse of the Dowell property. They put in flood lights with no shielding and the County had to tell them to desist, even after a judge forced them to pay a fine. There was an explosion at one time during construction that sent shrapnel into the Kuhn home. The Sheriff found no evidence of intentional wrongdoing. The general contractor for the Dowells assaulted the Kuhns physically. From that point, the Kuhns were not interested in making any deals with them.

The Kuhns feel the County turned its back on them many times, and they consider this a taking of their property, so they can't get permits, or sell until there is a specific agreement with the other party. He does not feel that the joint owners have ever done their part regarding maintenance of the jointly owned property.

The County has been enabling the other party by not enforcing the rules that they are supposed to follow. It is more than just an agreement. The County is inept, corrupt or both, as are the Dowells. There is a lack of integrity in not following through on something that is so important to the Kuhns. They do not want to just give it up. This behavior should not be allowed to just go on. The County ignored all the other restrictions except the one that says an agreement is needed.

They had a long-distance magistrate meeting, with Mrs. Kuhn at the County and Mr. Kuhn in Salem, mostly relating to taxes. The County was to set up the conference call to meet with the judge. At this time, the County asked them to stop filming in the County Counsel offices. Mrs. Kuhn was allowed to be in a conference room, and she remained there for some time. She was not allowed to distribute documents to witnesses. The magistrate was told that statements were hearsay or irrelevant. The magistrate found against them because of this. Mrs. Kuhn was treated rudely by the County.

At that time, Patricia Gainsforth, a friend (since deceased) involved in real estate, submitted documents on their behalf to the County. She said that it appeared the County was punishing the Kuhns for something. She said they had to unscramble the current impasse with the County and the Dowells before the property would have any value.

They do not feel that anyone will help them, not the police, the Courts, the District Attorney or the County. This video was made as a last resort to have the County admit that they made a lot of mistakes that have damaged the Kuhns. They want to move forward to fix what is needed to make the development work as it should for them, and the residents and wildlife of the Tumalo winter deer range.

Chair Unger asked that Mr. Kuhn limit his testimony after the video to ten minutes, as it is now 11:50 a.m. He continued the hearing at 11:55 a.m.

Mr. Kuhn distributed some exhibits at this time, using a hand-held microphone. He presented a small juniper in a bag to each Commissioner. He said each year he pulls about 100 of those to keep them from overtaking the property. He also passed out bags of cheat grass. They need help dealing with the vegetation issues. They are the only ones maintaining the property all these years. He referred to information that was provided a few days ago. He wants the Board to read Mr. Spitz's report regarding vegetation growth.

Also, he wants the Board to pay special attention to #4, the settlement agreement, as well as the six letters regarding the value of the property. He said that ORS law that gives them the right to collect some of what the Dowells are getting for rent. He and his wife can't get help because there is no agreement. Issue #21 is what the Dowells claimed in their purchase contract. He is disappointed that in 2008 Commissioner Baney accepted this fraudulent document as proof of their purchase when she should have known better.

Issue #22 is the Dowells' communications with the County regarding what they were going to build, which is completely different than what they did. And issue #28, which has to do with Cibelli (the contractor). Mr. Kuhn stated that this is all crap, what they have had to put up with all these years.

Issue #30 talks about the Dowells refusing to deal with the Kuhns. They could not agree on not having dogs on the property. The Kuhns gave all the documents to Bob Lovlien, attorney, who then was hired by the Dowells and tried to use the information against the Kuhns.

Issues #32 through #34 are e-mails that talk about FUD, fear, uncertainty and doubt. And issue #35, the County making other property owners get lot line adjustments, but the Dowells were not required to.

Mr. Kuhn called for Kevin Serrapede to speak. Mr. Serrapede said he lived in the area until 1994, and during that time he understood he was subject to restrictions that existed. He knew they could not develop property fully due to the overlay. He said he has worked with Deschutes County since 1978 and also with the City. He had been on the Broken Top homewares' association. Has known the Kuhns for 25 years and they are hard workers and law abiding. They are entitled to equal protection under the law.

He referred to the website page regarding code enforcement. He said it appears the Dowells have been in violation of code since they have been told so by the county. The Kuhns have been violated in various ways. It is clear the Kuhns are not asking for special treatment. The County should restore a way forward for the Kuhns to do what they feel is right.

Commissioner DeBone asked Mr. Serrapede if he used to live on the subject property. Mr. Serrapede replied that he was a neighbor but has not lived there since 1994. He had a conditional use permit at one time, and because of wildlife there, was told he would have to restrict construction to certain times of the day. He did not live in a cluster development but on a 40-acre parcel that was split into two. The Kuhns were his closest neighbors to the north.

Mr. Kuhn said that there is no site visit report in the file. He has repeatedly asked for this. Seven County personnel have visited, including one County Counsel, staff from Community Development and the Assessor. There should be a site visit report from each in the file.

In his opinion, Deschutes County owes the Dowells a lot of money also because the County did not do proper oversight, probably as much as \$300,000. He will fight for this. But he won't be bullied by Mr. Dowell who offers his property for sale to others for less than he would sell to the Kuhns. He does not want to deal with the legalities. He appreciates Ms. Smith's concept that cost sharing matters. This is a cluster development and no others remain with just two parcels. This is the only one left. It was a stupid decision to create it that way and he has tried his best to work within the restrictions of this.

After the Dowells spend the next twenty-seven and a half years maintaining the property just on their own, the Kuhns will consider entering into this agreement. He is the only one who has done this work. In today's dollars, bringing power to the cluster would have been about \$150,000 per party. The Kuhns will negotiate only if the County is negotiating as a separate party.

The County made significant errors that cost both parties a lot of money. The Kuhns are owed something as well as the Dowells. They want their property rights restored. The stuff they have had to go through, the eroding of their rights, has to stop. They will not allow the County to undermine the restrictions that should be in place. He does not like bullies. Mr. Cibelli and Mr. Dowell are bullies, and so is Mr. Doyle (*County Counsel*).

They want their rights back. They will move forward only when they get their rights back.

Ms. Smith said they are here to address the appeal of a declaratory ruling. In response to some of the testimony given, she indicated that there are two sides to every story. In the interest of time, she asked for the record to be left open for written rebuttal. She is amenable to more time if Mr. Kuhn wants it.

Commissioner Baney asked that some of the issues raised be addressed even if they are not part of the declaratory ruling. She asked staff about the statement regarding a fraudulent document and concerns regarding the owing of money, and rent that was said should have been shared. She'd like to know if any of this is valid.

Ms. Smith asked for two weeks to respond to this. Commissioner DeBone asked about the event regarding providing power to the property.

The Board decided that they would allow two weeks for additional testimony and one week for rebuttal, and a week for applicants' final legal argument. These dates would be January 27, February 3 and February 10. Ms. Smith agreed to 90 days beyond the 150 days if applicable.

The oral hearing was closed at 12:18 p.m.

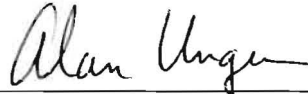
15. OTHER ITEMS

None were offered.

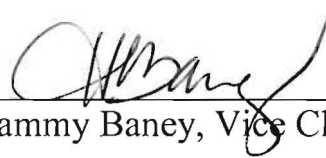
16. **ADJOURN**

Being no further discussion, the meeting was adjourned at 12:20 p.m.

DATED this 27th Day of January 2016 for the
Deschutes County Board of Commissioners.



Alan Unger, Chair



Tammy Baney, Vice Chair

ATTEST:



Recording Secretary



Anthony DeBone, Commissioner

SUMMARIZED RECONCILIATION

PER ED

	County Budgeted Withheld	Withhold Adjustments	Total County Withheld	Pacific Source Claims Paid on Behalf of Counties	County amounts (Owing) Due to
Crook	280,079	3,871	283,950	336,001	(52,051)
Deschutes	3,016,993	12,304	3,029,297	3,251,384	(222,087)
Jefferson	163,557	(25,505)	138,052	114,739	23,313
	3,460,629	(9,330)	3,451,299	3,702,124	(250,825)

Impact of Equity Distn

Cap% 6/2015	WEBCO Payment of County reconc	Impact: County (Owing) Due to
11.4%	(28,644)	(23,407)
77.6%	(194,741)	(27,346)
11.0%	(27,465)	50,778
100.0%	(250,825)	-

Note:

Amounts on reconciliation are not expenses of WEBCO and are to be paid or refunded to Counties.

Treatment results in misstatement of WEBCO earnings and should have been treated as an equity adjustment (defacto distn of equity).

Since distribution method did not take into account capital, counties were not treated equitably on WEBCO payment.

Not clear WEBCO organizational documents indicate how this distn takes place. Used 6/2015 % of capitation which may not equal ownership %.



Deschutes County Board of Commissioners
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BUSINESS MEETING AGENDA

DESCHUTES COUNTY BOARD OF COMMISSIONERS

10:00 A.M., WEDNESDAY, JANUARY 13, 2016

Commissioners' Hearing Room - Administration Building - 1300 NW Wall St., Bend

Pursuant to ORS 192.640, this agenda includes a list of the principal subjects anticipated to be considered or discussed at the meeting. This notice does not limit the ability of the Board to address additional subjects. Meetings are subject to cancellation without notice. This meeting is open to the public and interested citizens are invited to attend. Business Meetings are usually recorded on video and audio, and can be viewed by the public live or at a later date; and written minutes are taken for the record.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. CITIZEN INPUT

This is the time provided for individuals wishing to address the Board, at the Board's discretion, regarding issues that are not already on the agenda. Please complete a sign-up card (provided), and give the card to the Recording Secretary. Use the microphone and clearly state your name when the Board Chair calls on you to speak. PLEASE NOTE: Citizen input regarding matters that are or have been the subject of a public hearing not being conducted as a part of this meeting will NOT be included in the official record of that hearing.

If you offer or display to the Board any written documents, photographs or other printed matter as part of your testimony during a public hearing, please be advised that staff is required to retain those documents as part of the permanent record of that hearing.

CONSENT AGENDA

4. **Board Signature** of a Letter Appointing Jimm Burton to the Deschutes County Budget Committee, through December 31, 2018.
5. **Board Signature** of a Letter Reappointing John Morter to the Panoramic Access Special Road District Board, through December 31, 2018
6. **Board Signature** of a Letter Reappointing David Engeman to the Board of Cascade View Estates Special Road District, through December 31, 2018
7. **Board Signature** of Minutes:
 - Work Sessions of December 21 and 28, 2015 and January 4, 2016
 - Business Meetings of December 21 and 28, 2015 and January 6, 2016
 - Continued Public Hearing on a Goal 11 Exception Proposal, in La Pine, January 6, 2016

CONVENE AS THE GOVERNING BODY OF THE 9-1-1 COUNTY SERVICE DISTRICT

8. **CONSIDERATION of Board Signature** of Document No. 2016-056, An Intergovernmental Agreement with the Oregon Department of Transportation Awarding a Grant for Radio Communications System Interoperability – *Steve Reinke, 9-1-1*

• *Suggested Action: Move approval of Order No. 2016-003.*

9. **CONSIDERATION** of Board Signature of Order No. 2016-003, regarding Initiating Formation of a Deschutes County Chapter 451 Service District for Emergency Communications Services; Initiating Withdrawal of Properties Currently in the Emergency Communications Services District formed by Deschutes County 9-1-1 County Service District – *Steve Reinke, 9-1-1 Director*

Suggested Action: Move approval of Order No. 2016-003.

10. **A PUBLIC HEARING** on a Supplemental Budget Adjustment for the 9-1-1 County Service District; and Consideration of Board Signature of Resolution No. 2016-001 – *Steve Reinke, 9-1-1 Director*

Suggested Actions: Open hearing; take testimony; close hearing; move Board signature of Resolution No. 2016-001.

11. **CONSIDERATION of Approval** of Weekly Accounts Payable Vouchers for the 9-1-1 County Service District

CONVENE AS THE GOVERNING BODY OF THE EXTENSION/4-H COUNTY SERVICE DISTRICT

12. **CONSIDERATION of Approval** of Weekly Accounts Payable Vouchers for the Extension/4-H County Service District

RECONVENE AS THE DESCHUTES COUNTY BOARD OF COMMISSIONERS

13. **CONSIDERATION of Approval** of Weekly Accounts Payable Vouchers for Deschutes County

ACTION ITEMS

14. **A PUBLIC HEARING** on an Application for a Declaratory Ruling regarding a Maintenance Agreement (Dowell/Kuhn) – *Peter Gutowsky, Community Development*

Suggested Actions: Open hearing; take testimony; close hearing; deliberate and provide direction to staff as appropriate.

15. **OTHER ITEMS**

These can be any items not included on the agenda that the Commissioners wish to discuss as part of the meeting, pursuant to ORS 192.640.

At any time during the meeting, an executive session could be called to address issues relating to ORS 192.660(2)(e), real property negotiations; ORS 192.660(2)(h), litigation; ORS 192.660(2)(d), labor negotiations; ORS 192.660(2)(b), personnel issues; or other executive session categories. Executive sessions are closed to the public; however, with few exceptions and under specific guidelines, are open to the media.

16. **ADJOURN**

To watch this meeting on line, go to:
<http://www.deschutes.org/bcc/page/board-meeting-videos>

Please note that the video will not show up until recording begins.
You can also view past meetings on video by selecting the date shown on the website calendar.



Deschutes County encourages persons with disabilities to participate in all programs and activities. To request this information in an alternate format please call (541) 617-4747, or email ken.harms@deschutes.org.

FUTURE MEETINGS:

(Please note: Meeting dates and times are subject to change. All meetings take place in the Board of Commissioners' meeting rooms at 1300 NW Wall St., Bend, unless otherwise indicated. If you have questions regarding a meeting, please call 388-6572.)

Wednesday, January 13

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)

Friday, January 15

- 7:30 a.m. Joint Meeting with La Pine and Sunriver Chambers of Commerce, **at 1,000 Trails**
10:00 a.m. Site Visit to Lower Bridge Road Property (meet at County)

Monday, January 18

Most County offices will be closed to observe Martin Luther King, Jr. Day.

Tuesday, January 19

- 10:00 a.m. 911 User Board Meeting, at 911

Wednesday, January 20

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)

Friday, January 22

- 8 a.m. Board Annual Retreat, **at Deschutes Historical Society Conference Room**

Monday, January 25

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)

Wednesday, January 27

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)

Monday, February 1

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)

Tuesday, February 2

- 3:30 p.m. Regular Meeting of Public Safety Coordinating Council

Wednesday, February 3

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)

Wednesday, February 10

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)

Monday, February 15

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)

Tuesday, January 16

- 10:00 a.m. 911 User Board Meeting, at 911

Monday, February 22

- 10:00 a.m. Board of Commissioners' Business Meeting
1:30 p.m. Administrative Work Session – could include executive session(s)

Wednesday, February 24

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Monday, February 29

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

Tuesday, March 1

3:30 p.m. Regular Meeting of Public Safety Coordinating Council

Wednesday, March 2

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)

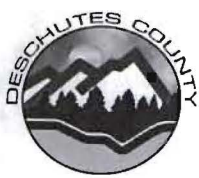
Monday, March 7

10:00 a.m. Board of Commissioners' Business Meeting

1:30 p.m. Administrative Work Session – could include executive session(s)



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BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: 911 LEVY PROPOSAL Date: 1-13-16

Name LARRY W. FULKERSON

Address 22321 NW ANNE RD.
BEAD 97702

Phone #s 541 977-8988

E-mail address LANDCFLKRSN @ GMAIL.COM

☒ In Favor ☐ Neutral/Undecided ☐ Opposed

Submitting written documents as part of testimony? ☒ Yes ☐ No

If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: DR - # 14 Date: 1/13/16

Name Sharon Smith

Address 591 SW Mill View Way

Phone #s _____

E-mail address _____

☒ In Favor ☐ Neutral/Undecided ☐ Opposed

Submitting written documents as part of testimony? ☒ Yes ☐ No

If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: Kuhn / Dowell Date: 2016 01 13.3

Name William Kuhn

Address PO Box 5996 97708-5996

Phone #s 541 389 3676

E-mail address William @ riskfactor.com

☐ In Favor ☐ Neutral/Undecided ☐ Opposed

Submitting written documents as part of testimony? ☒ Yes ☐ No

If so, please give a copy to the Recording Secretary for the record.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Subject: KUHN and Dowells Date: 1/13/16

Name KEVIN SERRAPEDE

Address 3803 NE PARCELL BLVD

BEND OR 97701

Phone #s 541-330-8972

E-mail address KEVSERRA@bendcable.com

☐ In Favor ☐ Neutral/Undecided ☐ Opposed

Submitting written documents as part of testimony? ☒ Yes ☐ No

If so, please give a copy to the Recording Secretary for the record.