



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
MONDAY, DECEMBER 21, 2015

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

Present were Commissioners Anthony DeBone Tammy Baney and Alan Unger. Also present were Tom Anderson, County Administrator; Dave Doyle, County Counsel; Nick Lelack, Paul Blikstad, Peter Gutowsky and Peter Russell, Community Development; and approximately thirty other citizens, including representatives of the media.

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. CITIZEN INPUT**

None was offered.

CONSENT AGENDA

It was decided that Item #8 will be reviewed further at today's Board work session. Commissioner Baney indicated she had not had time to review the minutes, so they were removed from the agenda.

BANEY: Move approval of the consent agenda with these changes.

UNGER: Second.

VOTE: BANEY: Yes.

UNGER: Yes.

DEBONE: Chair votes yes.

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4. **Board Signature** of Document No. 2015-724, a Special Transportation Fund Grant Agreement with Central Oregon Intergovernmental Council
 5. **Board Signature** of Document No. 2015-721, an Intergovernmental Agreement/Grant between High Desert Education Service District and County Health Services
 6. **Chair Signature** of Document No. 2015-735, an Intergovernmental Agreement between Oregon Criminal Justice Commission and County Community Justice to Fund Victims' Services Agencies
 7. **Board Signature** of Document No. 2015-759, an Application to Apply for a Grant from the U.S. Department of Justice, Office on Violence Against Women, Justice for Families Program
 8. **Board Signature** of Document No. 2015-743, an Infrastructure Improvement Agreement with Tetherow Resort (Cascade Vista)
 9. **Board Signature** of the Acquisition of a Clear Vision Easement and Acceptance of a Public Right-of-Way, Fryrear Road at Cascade Estates Drive
 10. **Board Signature** of Document No. 2015-717, Extending an Agreement with Telmate regarding Inmate Phone Services
 11. **Board Signature** of Resolution No. 2015-112, Declaring Certain Personal Property Surplus and Directing Disposal (Information Technology)
 12. **Board Signature** of Document No. 2015-758, a License to Use a Right-of-Way on First Street in La Pine for the La Pine Park & Recreation District
 13. **Board Signature** of Resolution No. 2015-113, a Budget Adjustment Appropriating the Proceeds of Full Faith & Credit Refunding
 14. **Board Signature** of Resolution No. 2015-114, Rescinding the Authorizat6ion of a Change Fund and Petty Cash Fund for the Victims' Assistance Fund
 15. **Board Signature** of Resolution No. 2015-115, Appropriating New Grants in the Adult Parole & Probation Fund

16. **Board Signature** of Letters Appointing Individuals to the Board of Deschutes River Recreation Homesites Special Road District Unit 8, Part 3:
 - Shawn McDaniel, through December 31, 2018
 - Josh Hanson, through December 31, 2016
 - Nicole Precone, through December 31, 2017
17. **Board Signature** of a Letter Accepting the Resignation of Clyde “Bud” Preston from the Forest View Special Road District, and Thanking him for his Service
18. **Board Signature** of Letters regarding Central Oregon Intergovernmental Council Appointments:
 - Accepting the Resignation of Tim Casey, and Thanking him for his Service
 - Reappointing David Dona of COCC; Chris Bellusci of Geo-Engineers; Jim Kirkbridge of St. Charles Health System; and John McLeod of Mt. Bachelor, Inc., through December 31, 2017
19. **Board Signature** of Minutes:
 - Work Sessions of December 7 and 9, 2015
 - Business Meetings of December 7 and 9, 2015
 - Public Hearing on Goal 11 Exception Process, October 28, 2015
 - Public Hearing on Marijuana Businesses, December 2, 2015
 - Budget Committee Meeting of December 15, 2015

ACTION ITEMS

20. **Before the Board was Consideration of Board Signature of Document No. 2015-747, a Notice of Intent to Award Contract Letter for the Provision of an On-Site Pharmacy within the Deschutes County Downtown Clinic.**

Lori Hill gave a brief overview of the item. There was an RFP process with two bidders, and only one would provide on-site services as needed to the client population. There should be no cost to the County.

UNGER: Move signature.

BANEY: Second.

VOTE: UNGER: Yes.

BANEY: Yes.

DEBONE: Chair votes yes.

21. Before the Board was Consideration of Second Reading, by Title Only, and Adoption of Ordinance No. 2015-019 and 2015-020, Amending Code to Enable the County to Not Process Land Use Applications for Properties with Existing Code Violations.

Peter Russell explained the item, and said that he contacted the stakeholders committee and they are supportive of the current document, as is the Planning Commission.

UNGER: Move second readings by title only of the Ordinances.

BANEY: Second.

VOTE: UNGER: Yes.

BANEY: Yes.

DEBONE: Chair votes yes.

Chair DeBone conducted the second readings by title only of each Ordinance.

BANEY: Move adoption of the Ordinances.

UNGER: Second.

VOTE: BANEY: Yes.

UNGER: Yes.

DEBONE: Chair votes yes.

22. Before the Board were Deliberations and Consideration of First Reading, by Title Only, of Ordinance No. 2016-001, a Plan Amendment from Exclusive Farm Use to Rural Industrial Exception Area (Deschutes Junction - Aceti).

Paul Blikstad and Peter Gutowsky came before the Board to give an overview of the item. Final arguments and testimony were provided to the Board and some options were provided as well.

Commissioner Unger said this has been a challenging piece of property for a long time. He supports the Hearings Officer's conclusion. Commissioner Baney agreed, and feels this is the strongest decision they have seen regarding this property and area. Chair DeBone added that there is a lot of history on the area. He also supports the Hearings Officer's decision.

UNGER: Move first reading by title only of Ordinance No. 2016-001.

BANEY: Second.

VOTE: UNGER: Yes.
BANEY: Yes.
DEBONE: Chair votes yes.

Chair DeBone conducted the second reading by title only of Ordinance No. 2016-001.

23. Before the Board were Deliberations and Consideration of First Reading, by Title Only, of Ordinance No. 2016-002, a Zone Change from Exclusive Farm Use to Rural Industrial Exception Area (Deschutes Junction - Aceti).

UNGER: Move first reading by title only of Ordinance No. 2016-002.
BANEY: Second.

VOTE: UNGER: Yes.
BANEY: Yes.
DEBONE: Chair votes yes.

Chair DeBone conducted the second reading by title only of Ordinance No. 2016-002.

The second readings of both Ordinances would occur no sooner than two weeks from today, probably on January 4, 2016.

24. Before the Board was a Public Hearing (*continued from December 2*), and Consideration of First and Second Readings by Title Only, and Adoption by Emergency of Ordinance No. 2015-010, Amending Code Title 23 to Adopt Sage Grouse Inventories and Regulations.

Mr. Gutowsky gave an overview of these Ordinances, explaining that the Ordinances did not change. There has not been any testimony offered other than DLCD providing certainty that the core and priority areas will be properly addressed if there is a significant disturbance, through working with the affected counties. This was requested by Harney County and Judge Grasty, but other eastern Oregon counties are also supportive of the disturbance cap.

There appear to be no other outstanding issues. The rules are required to be implemented today so the correct information is readily available to customers.

Commissioner Unger wanted to be sure that all counties were aligned on how this should be handled. All the Commissioners want to be sure the law is followed to properly manage Sage Grouse habitat, and the process seems to be working well for the ranchers and others who are affected.

Chair DeBone opened the hearing. Being no testimony offered, he closed the hearing.

BANEY: Move first and second readings by title only, and adoption by emergency of Ordinance No. 2015-010.

UNGER: Second.

VOTE: BANEY: Yes.

UNGER: Yes.

DEBONE: Chair votes yes.

Chair DeBone conducted the first and second readings of Ordinance No. 2015-010, by title only, declaring an emergency.

BANEY: Move adoption by emergency of Ordinance No. 2015-010.

UNGER: Second.

VOTE: BANEY: Yes.

UNGER: Yes.

DEBONE: Chair votes yes.

25. Before the Board was a Public Hearing (*continued from December 2*), and Consideration of First and Second Readings by Title Only, and Adoption by Emergency of Ordinance No. 2015-011, Amending Code Title 18 to Adopt Sage Grouse Inventories and Regulations.

BANEY: Move first and second readings by title only, and adoption by emergency of Ordinance No. 2015-011.

UNGER: Second.

VOTE: BANEY: Yes.

UNGER: Yes.

DEBONE: Chair votes yes.

Chair DeBone conducted the first and second readings of Ordinance No. 2015-011, by title only, declaring an emergency.

BANEY: Move adoption by emergency of Ordinance No. 2015-011.

UNGER: Second.

VOTE: BANEY: Yes.

UNGER: Yes.

DEBONE: Chair votes yes.

26. Before the Board was Deliberations and Consideration of First Reading by Title Only of Ordinance No. 2016-003, a Text Amendment regarding Deschutes County Code Title 18 to Modify DCC 18.113.060, Standards for Destination Resorts (Eagle Crest).

Peter Gutowsky advised that this is a text amendment initiated by Eagle Crest Resort to modify how they account for overnight lodging, relying on national websites and other ways to document this information. This only pertains to Eagle Crest.

At the end of the hearing, the Board had closed the oral record and left the written record open. There was a typographical error that is addressed in the staff report. Everyone who has participated is aware of this small edit. Also, the applicant addressed the question of who is going to pay for staff review of the annual report. This will be provided by Eagle Crest based on the staff time required.

Commissioner Baney thinks this is a good solution for an issue that has been challenging for years. It meets the needs of the County and the resort. Eagle Crest is unique and the language is narrowly focused to just this resort, which is the original one in the area. Technology has changed since then and reporting can be handled in a very different way. This is the best case scenario to move forward. Commissioner Unger agreed. It is a work in progress and can be revisited if it needs to be refined. Chair DeBone also concurred. There is a lot of history and they need to move forward in this way.

UNGER: Move first reading by title only of the Ordinance.

BANEY: Second.

VOTE: UNGER: Yes.

BANEY: Yes.

DEBONE: Chair votes yes.

Chair DeBone conducted the first reading by title only of Ordinance No. 2016-003. The second reading will take place on January 4.

27. Before the Board was Deliberations and Consideration of Ordinances regarding Marijuana-related Businesses.

Exhibit A: Planning Commission Deliberation Worksheet: Proposed Marijuana Related Businesses – Permitted

Exhibit B: Ordinance Language

Exhibit C: Planning Commission Recommendations: Summary of Zones Permitting Marijuana Related Businesses

Exhibit D: Definitions pertaining to Marijuana Related Businesses

Exhibit E: Proposed Opt Out Ordinances:

- Prohibiting the Establishment of Marijuana Businesses within Unincorporated Deschutes County and Referral to the Electors – **Total Opt Out**
- Prohibiting the Establishment of Identified Marijuana Businesses within Unincorporated Deschutes County and Referral to the Electors – **Medical Marijuana Processing**
- Prohibiting the Establishment of Identified Marijuana Businesses within Unincorporated Deschutes County and Referral to the Electors – **Medical Marijuana Dispensaries**
- Prohibiting the Establishment of Identified Marijuana Businesses within Unincorporated Deschutes County and Referral to the Electors – **Operation of Marijuana Producers**
- Prohibiting the Establishment of Identified Marijuana Businesses within Unincorporated Deschutes County and Referral to the Electors – **Operation of Marijuana Processors**
- Prohibiting the Establishment of Identified Marijuana Businesses within Unincorporated Deschutes County and Referral to the Electors – **Operation of Marijuana Retailers**
- Prohibiting the Establishment of Identified Marijuana Businesses within Unincorporated Deschutes County and Referral to the Electors – **Operation of Marijuana Wholesalers**

Chair DeBone said there has been a lot of great effort taken to address this issue, based on what has been handed to the counties by the State.

Nick Lelack and Matt Martin summarized what can be considered. A memorandum explains some of the items, along with some matrixes and other information. Mr. Lelack asked how the Board wants to proceed. There are regulatory proposals as well as opt out proposals.

Commissioner Unger said he supports trying to figure out some rules rather than opting out. Commissioner Baney believes this is the last day to decide on whether to opt out. She appreciates all the input from both sides. She has yet to see an issue that has crossed every person in some way, and she has learned a lot. Their job is to be objective. She appreciates the Planning Commission's work and the public comments.

Until this morning, she said she was still not sure how to handle it. The decisions they make today will affect everyone for years to come. Whether someone is for or against some of it, she has heard very thoughtful approaches to this issue. She has not heard anyone say that they don't care about their neighbors. In reviewing Measure 91, there was a disservice affecting everyone. It was supposed to allow personal use and most felt that this was to be done in people's own homes. The entire issue was not made clear to the public.

They are now faced with issues regarding commercial activities and the businesses associated with this. Measure 91 does not talk about this at all. It left others unaware of the potential consequences and they are faced with having to figure it out.

Until today, she thought the right thing to do was to restrict how it might be allowed and adjust those restrictions as appropriate in the future. However, it is hard to un-ring a bell. With the support of those who want to grow and those who want to be good neighbors, to regulate the concerns: odor foremost, activities on easements, size, location, all of these issues, the difficulty is that there is a right to farm law. The right to farm law is unique to Oregon.

She looked at Colorado and Washington to try to find similar communities. Deschutes County is unique and not like others in Oregon, either. There are similarities to use as a benchmark. Those areas do not allow some of the proposed uses. Oregon has strenuous land use laws for good reasons. Her concern is that if they do not opt out today, they lose the ability to impose any reasonable and defensible restrictions.

The right to farm law has not been challenged on this issue, and the majority of rural residents did not support Measure 91. It was passed primarily by city residents. In any case, she has not heard anyone say they voted 'yes' on Measure 91 to include large grow operations in rural areas. IF they do not opt out today and propose regulations, there will be a challenge to the right to farm part. The Oregon Farm Bureau is concerned about what other crops might then be restricted.

With this wild card, there could be a challenge and if the County loses, there will be no ability to impose even reasonable regulations. She knows that those who want to grow want to have good neighborly interactions. But they also want to grow their businesses.

If the County opts out today, they have an opportunity to have challenges occur and can always take up this issue at that time. It buys some time to make long-term decisions without being pressured by a short-term deadline.

Chair DeBone stated that there has been a great deal of thought about the best starting spot. When it comes down to it, he voted no on Measure 91. In the big picture of medical grows, a lot of activity is happening without enough scrutiny. This has been held back by the Oregon Health Authority from everyone but the Sheriff. Therefore, the County can't regulate this aspect much. Opt out sets up time for a strong discussion and possibly a vote of the people. It is very awkward and divisive, he can see opting out and then revoking the opt out if they feel it is time to move forward.

Commissioner Unger said that marijuana is here, but the Oregon Health Authority has not done good oversight and went forward without consideration of land uses and the needs of the County. Most of the current issues are because of those grows and there is conflict. He believes in personal property rights, but that should be within the law and not affect the neighbors. The impacts are important. They all need to agree on where to go, and if there is no local decision, the ability to be in front of this may be lost. He agrees with Tammy that LUBA has a big effect on decisions and any decision needs to be done right the first time. He wants to get it right. He does not feel they should not just throw it to the voters. He wants to work on time, place and manner to make it clear for the voters exactly what they are considering. Measure 91 seemed like the right thing to do at the time, but it left a lot unsaid and a lot for local governments to figure out. The OLCC is trying to deal with this as well.

Commissioner Baney said that Clackamas County is trying to impose reasonable restrictions, and she'd like to see how they proceed. The Board could rescind the opt out sooner, before a vote, if there is clarity. Those who are in the business want reasonable guidelines, but there is no case law or reasonable information. The Board could consider answering the questions after watching another county go forward.

A straight opt out does not make good sense long-term. There is a role for utilizing farmland in this. But rather than being the test pilot for what this looks like, she'd like to buy some time, learn from others and try to offer some long-term assurances.

Chair DeBone said it has been difficult and interesting, and there has been a lot of public engagement. There are concerns about protecting children and impacts on property. He wants to shed light on this and be able to track it better. This was not a starting point for him. He wants to know how this fits in with land use.

Commissioner Unger feels there are some good staff suggestions before the Board at this time. They need to figure out how to address medical grows and have them go into compliance. He thinks what they have today can be refined and used.

Commissioner Baney said that there seems to be agreement that a citizen committee would make good sense. She is proud of the community while she watched respectful dialogue, and knows citizens can provide guidance.

All the Commissioners agreed with this. Chair DeBone stated that there needs to be people involved who will listen to others, and who want to come to a reasonable conclusion and work on their differences for the overall good.

Commissioner Baney said that marijuana supporters feel this opens the door regarding the impacts on children. It may be a gateway drug for some. She has a teenager and of course is concerned about this as well. But she does not feel that today's discussion is a big part of this issue. They are living around many grows today that were already allowed.

Mr. Martin noted there are over 1,700 grow sites on record. Commissioner Baney said she does not feel that this opens that door any wider, but they need to address quality of life and compatibility issues. Others care a lot about this. It is not a clear-cut, 'you are good' and 'you are bad' situation.

Chair DeBone said that there are common issues to address beyond the hard line on either side.

County Counsel David Doyle stated that Deschutes County was not a 55% or more 'no' vote on Measure 91, so the opt out creates a moratorium for anyone from the OLCC to issue licenses until the opt out is either rescinded or voted on. Some counties initiated an opt out immediately, but there was less other support for Measure 91 in those areas and HB 3400 allowed the counties to do this. The vote was too close for that to happen in this county.

Commissioner Unger says it appears to him that the Board does not seem comfortable with moving forward with regulations at this point, and that they want further discussion, with the help of a citizen committee. There will be a path to follow in the future. He is not excited about a vote later because it continues to be such a divisive situation.

Commissioner Baney feels that those who voted for Measure 91 did so to allow personal use, and no thought was given to the land use part by the voters or those who wrote Measure 91. A future vote would probably go too far in either direction for most people. It could open it up to very few restrictions, or restrict too much. There is a responsibility to guide this, but it is an issue where she does not want Deschutes County to be the test pilot. There is an opportunity to learn from another county. This might shed light on what might be truly defensible.

The Commissioners would like to see a committee formed. Chair DeBone said he was prepared to deal with some of the bigger issues: light, odor, sound, etc. today. However, it was contentious at the Planning Commission and it is hard to know what is reasonable and defensible. What is reasonable to one person is not for another.

If there is a committee formed, he wants to know what that would look at, and when the Board deliberate again. Commissioner Baney is not sure what Clackamas County is doing, and the right to farm law is the big wild card. This trumps all, and makes Oregon much different from Colorado or Washington. It could leave the area in an uncertain situation for a long time.

They might wait to establish a committee until they can see what is happening with other counties that are moving forward. She does not want to wait until November and have it go to the people, but if any restrictions are put in place today and they are reversed, that could create even bigger problems.

Chair DeBone said in his view, this has to do mainly with uses on EFU land. Setting a minimum lot size for EFU may not be reasonable. Odor control for farming may not be reasonable since there are a lot of farm uses that can cause this concern. Regardless, many feel that these issues need controls. However, some of it could result in uncertainties and legal battles that no one wants.

Chair DeBone asked how a committee might look. Mr. Lelack said that Clackamas adopted some rules on December 17, but there is an appeal period. Jackson County is following suit. There are multiple ordinances going forward regarding right to farm laws in various zones. He expects some will be challenged. Clackamas started a committee in March or April 2015, comprised of well-informed people. Perhaps if the path forward is to do this, the Board can decide about the application process, the intended outcome and when this should be reached. Early legal decisions might be rendered on others entities by February or March. Deschutes County staff can work with the staff of other counties to keep informed on this.

Chair DeBone said this process could then end up taking six months. His assumption is whether to opt out will be decided today. Commissioner Unger feels they could opt out and work on refining this further, watch what others are doing, and find common ground. Commissioner Baney said that they will know soon if the other counties are challenged and on what basis, and this can help Deschutes County work towards what is reasonable. There is a good framework to start. She does not want to usurp the authority of the Board, but feels there can be refinements.

Commissioner Unger is not excited about cooperatives with a big impact in one part of the county. Those are a few of the things he does not quite understand. Chair DeBone said that it is disconcerting if a decision were to be thrown out and leaves them no recourse. Getting good information is what they all need. He is worried about the timing, though. There needs to be a date set if they plan to rescind the opt out at some point.

Mr. Doyle said they can rescind an ordinance at any time if they reach a point where they have clarity. However, most legal challenges won't be decided before November 2016. If the Clackamas ordinances are challenged, it will take LUBA several months to review them, and then it could go to the Court of Appeals. If the rules are not challenged now but end up being appealed through code enforcement, and the right to farm law is brought up, that will take time as well. OLCC is looking at 60 to 90 days to process licensing.

Commissioner Unger stated that this has been a frustrating issue, with the legislature giving little direction, and OLCC is not really ready either. It is difficult to create any certainty. Commissioner Baney feels that if there are no challenges to what Clackamas or Jackson counties do, that is a strong indicator for Deschutes County on what might work best. Commissioner Unger said that the right to farm law might be adjusted at some point, since this crop is not traditional and may be more impactful than the typical farm use.

Chair DeBone feels that marijuana use is here and has been around for a long time. He is not that supportive of opting out. However, a decision has to be unanimous before the deadline. If there is a vote, they would lose some effectiveness. Commissioner Unger said there has not been enough time to develop certainties.

Chair DeBone does not want to opt out. Commissioner Unger wants to move forward with something, but this is a moving target and more time could be prudent. There needs to be a decision of some kind. Chair DeBone referred to Exhibit B of the Code, which references rules and regulations. He noted that there are lots of loose ends on this issue.

Commissioner Baney asked if he is ready to make a recommendation as to how someone can apply. Chair DeBone said might be able to do so on a limited basis. Commissioner Baney asked where he would put limits. Chair DeBone supports a committee being formed, but wants a very strict timeframe so they do not leave people hanging. Commissioner Baney feels sixty days would be sufficient. Commissioner Unger said the legislature will be meeting in short session, and thinks the Board should opt out until May to see if there are legislative changes.

Commissioner Baney does not want to say no to it all, but wants better way to make a decision without creating even more conflict and uncertainty. Commissioner Unger is comfortable with 90 days for further review. Commissioner Baney would like to be able to add clarity and not make a mistake now that causes even more complications later. Commissioner Unger said they had talked about being more conservative to start, when establishing guidelines and rules, which staff has developed and is presenting today. Chair DeBone wants to get to a conclusion and not wait for a vote of the people, which might result in even less local control of the issues.

Mr. Doyle asked if this would be an automatic 90-day rescission. Chair DeBone asked if they need a date for this. Mr. Doyle said it should be written one way or another. Commissioner Baney wants to revisit it in 90 days once other counties have dealt with some of it, and to give a chance for a committee to come up with suggestions, but not write the 90 days into it.

Commissioner Unger agreed that putting themselves at a set date does not allow flexibility. That is the problem they have now, that is forcing them into a corner.

BANEY: Move first and second readings of Ordinance No. 2015-009 by title only, opting out.

UNGER: Second.

VOTE: BANEY: Yes.

UNGER: Yes.

DEBONE: Chair votes yes.

Chair DeBone conducted the first and second readings by title only, of an Ordinance prohibiting the establishment of marijuana businesses within unincorporated Deschutes County, and referral to the electors, declaring an emergency.

BANEY: Move adoption of Ordinance No. 2015-009, by emergency.

UNGER: Second.

VOTE: BANEY: Yes.

UNGER: Yes.

DEBONE: Chair votes yes.

The Ordinance becomes final at the time it is signed by the Commissioners.

Commissioner Baney stated that she appreciates the patience of everyone involved. This is a serious decision with long-term ramifications, and they really need the additional time to properly address it.

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

- 28. Before the Board was Consideration of Approval of Weekly Accounts Payable Vouchers for the 9-1-1 County Service District in the Amount of \$41,255.90.**

UNGER: Move approval, subject to review.

BANEY: Second.

VOTE: UNGER: Yes.

BANEY: Yes.

DEBONE: Chair votes yes.

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

- 29. Before the Board was Consideration of Approval of Weekly Accounts Payable Vouchers for the Extension/4-H County Service District.**

There were no expenses for this District.

RECONVENED AS THE DESCHUTES COUNTY BOARD OF COMMISSIONERS

- 30. Before the Board was Consideration of Approval of Weekly Accounts Payable Vouchers for Deschutes County in the Amount of \$1,662,159.47.**

Mr. Anderson said there was a payment to COCC, for training employees.

UNGER: Move approval, subject to review.

BANEY: Second.

VOTE: UNGER: Yes.

BANEY: Yes.

DEBONE: Chair votes yes.

- 31. OTHER ITEMS**

None were offered.

32. **ADJOURN**

Being no further discussion, the meeting was adjourned at 11:30 a.m.

DATED this 13th Day of January 2016 for the
Deschutes County Board of Commissioners.



Alan Unger, Chair




Tammy Baney, Vice Chair

ATTEST:



Recording Secretary



Anthony DeBone, Commissioner



Deschutes County Board of Commissioners
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BUSINESS MEETING AGENDA

DESCHUTES COUNTY BOARD OF COMMISSIONERS

10:00 A.M., MONDAY, DECEMBER 21, 2015

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

Information on items listed on the Consent Agenda has been made available in advance to the Commissioners and the public, for review. These items are considered to be routine, and can be approved by one motion of the Board. If separate discussion is desired on a particular item, that item may be removed from the Consent Agenda by any Commissioner, and addressed as a regular agenda item.

4. **Board Signature** of Document No. 2015-724, a Special Transportation Fund Grant Agreement with Central Oregon Intergovernmental Council
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 - Josh Hanson, through December 31, 2016
 - Nicole Precone, through December 31, 2017
18. **Board Signature** of a Letter Accepting the Resignation of Clyde “Bud” Preston from the Forest View Special Road District, and Thanking him for his Service
19. **Board Signature** of Letters regarding Central Oregon Intergovernmental Council Appointments:
 - Accepting the Resignation of Tim Casey, and Thanking him for his Service
 - Reappointing David Dona of COCC; Chris Bellusci of Geo-Engineers; Jim Kirkbridge of St. Charles Health System; and John McLeod of Mt. Bachelor, Inc., through December 31, 2017
20. **Board Signature** of Minutes:
 - Work Sessions of December 7 and 9, 2015
 - Business Meetings of December 7 and 9, 2015
 - Public Hearing on Goal 11 Exception Process, October 28, 2015
 - Public Hearing on Marijuana Businesses, December 2, 2015
 - Budget Committee Meeting of December 15, 2015

ACTION ITEMS

21. **CONSIDERATION of Board Signature** of Document No. 2015-747, a Notice of Intent to Award Contract Letter for the Provision of an On-Site Pharmacy within the Deschutes County Downtown Clinic – *Nancy Mooney, Health Services*

Suggested Action: Move signature of Document No. 2015-747.

22. **CONSIDERATION of Second Reading** by Title Only, and Adoption of Ordinance No. 2015-020, Amending Code to Enable the County to Not Process Land Use Applications for Properties with Existing Code Violations – *Peter Russell, Community Development*

Suggested Actions: Conduct second reading by title only; move adoption.

23. **DELIBERATIONS** and Consideration of First Reading, by Title Only, of Ordinance No. 2016-001, a Plan Amendment from Exclusive Farm Use to Rural Industrial Exception Area (Deschutes Junction - Aceti) – *Peter Gutowsky, Community Development*

Suggested Actions: Deliberate; conduct first reading by title only. (Second reading would occur no sooner than in two weeks.)

24. **DELIBERATIONS** and Consideration of First Reading, by Title Only, of Ordinance No. 2016-002, a Zone Change from Exclusive Farm Use to Rural Industrial Exception Area (Deschutes Junction - Aceti) – *Peter Gutowsky, Community Development*

Suggested Actions: Deliberate; conduct first reading by title only. (Second reading would occur no sooner than in two weeks.)

25. **A PUBLIC HEARING** (*continued from December 2*), and Consideration of First and Second Readings by Title Only, and Adoption by Emergency of Ordinance No. 2015-010, Amending Code Title 23 to Adopt Sage Grouse Inventories and Regulations – *Peter Gutowsky, Community Development*

Suggested Actions: Open hearing; take testimony; conduct first and second readings by title only; adopt by emergency.

26. **A PUBLIC HEARING** (*continued from December 2*), and Consideration of First and Second Readings by Title Only, and Adoption by Emergency of Ordinance No. 2015-011, Amending Code Title 18 to Adopt Sage Grouse Inventories and Regulations – *Peter Gutowsky, Community Development*

Suggested Actions: Open hearing; take testimony; conduct first and second readings by title only; adopt by emergency.

27. **DELIBERATIONS** and Consideration of First Reading by Title Only of Ordinance No. 2016-003, a Text Amendment regarding Deschutes County Code Title 18 to Modify DCC 18.113.060, Standards for Destination Resorts (Eagle Crest) – *Peter Gutowsky, Community Development*

Suggested Actions: Deliberate; consider conducting first reading by title only. (Second reading would occur no sooner than in two weeks.)

28. **DELIBERATIONS** and Consideration of Ordinances regarding Marijuana-related Businesses – *Matt Martin, Community Development*

Exhibit A: Planning Commission Deliberation Worksheet: Proposed Marijuana Related Businesses – Permitted

Exhibit B: Ordinance Language

Exhibit C: Planning Commission Recommendations: Summary of Zones Permitting Marijuana Related Businesses

Exhibit D: Definitions pertaining to Marijuana Related Businesses

Exhibit E: Proposed Opt Out Ordinances:

- Prohibiting the Establishment of Marijuana Businesses within Unincorporated Deschutes County and Referral to the Electors – **Total Opt Out**
- Prohibiting the Establishment of Identified Marijuana Businesses within Unincorporated Deschutes County and Referral to the Electors – **Medical Marijuana Processing**
- Prohibiting the Establishment of Identified Marijuana Businesses within Unincorporated Deschutes County and Referral to the Electors – **Medical Marijuana Dispensaries**
- Prohibiting the Establishment of Identified Marijuana Businesses within Unincorporated Deschutes County and Referral to the Electors – **Operation of Marijuana Producers**
- Prohibiting the Establishment of Identified Marijuana Businesses within Unincorporated Deschutes County and Referral to the Electors – **Operation of Marijuana Processors**
- Prohibiting the Establishment of Identified Marijuana Businesses within Unincorporated Deschutes County and Referral to the Electors – **Operation of Marijuana Retailers**
- Prohibiting the Establishment of Identified Marijuana Businesses within Unincorporated Deschutes County and Referral to the Electors – **Operation of Marijuana Wholesalers**

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

29. **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**

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

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

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

32. **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.

33. **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.)

Monday, December 21

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

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

Friday, December 25

Most County offices will be closed to observe Christmas Day.

Monday, December 28

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

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

Wednesday, December 30

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

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

Friday, January 1

Most County offices will be closed to observe New Years' Day.

Monday, January 4

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

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

Tuesday, January 5

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

Wednesday, January 6

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

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

6:00 p.m. Continued Public Hearing on Goal 11 Options – **La Pine High School**

Thursday, January 7

8:00 a.m. Regular Joint Meeting with the Sisters City Council, **Sisters City Hall**

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**

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)

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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Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

www.oregon.gov/LCD



December 16, 2015

Honorable Steve Grasty, Judge
Harney County Court
450 N. Buena Vista
Burns, Oregon 97720

Dear Judge Grasty:

Thank you again for your hard work and dedication helping Oregon and the ten other western states to avoid a federal listing of the Greater Sage-Grouse. We particularly appreciate your assistance framing the "Sage-Grouse" rule adopted by the Land Conservation & Development Commission (commission) in Burns, Oregon last July. I deeply value our good relationships with local government partners and we look forward to maintaining these relationships far into the future.

Most recently Oregon's seven effected counties participated in a rule revision establishing the "disturbance baseline." The rule revision was adopted by the commission on December 3, 2015. This work is a critical part of Oregon's efforts to ensure that adequate protection is furnished for the species while continuing to preserve important economic development opportunities. The commission's adoption settles this issue. Oregon's sage-grouse counties now have a starting point to begin considering development proposals and are free to use this information without fear of legal challenge. The baseline calculations have benefitted from local input and we appreciate how sensitive this subject matter is.

Shortly after the commission hearing you expressed questions regarding the additions to OAR 660-023-0115(15). The language included in the November 20, 2015 staff report is provided below. The language in bold was originally proposed by staff. The language in red and ~~strike-out~~ represent the amendment proposed by legal counsel and accepted by the commission.

(15) Central Registry. The department will work with the counties identified in section (5), Oregon Department of Fish and Wildlife, the Bureau of Land Management (BLM), and US Fish and Wildlife Service to maintain a central registry, tracking human disturbance from existing (baseline) and all new development affecting core areas. In addition to serving as partners in maintaining the central registry, counties must report all development land use permits for all uses within a core area to the department. The registry will include baseline calculations of direct impact levels consistent with the approach identified by the BLM. **The percentage figures included in Exhibit D establish the baseline for human disturbance existing on the effective date of this rule. If better information becomes available, the commission may the baseline may be revised the baseline subject to a rule amendment that is coordinated with all affected the counties identified in section (5)¹ and other interested parties.** Counties may establish more refined, project specific data to replace the baseline figures so long as all counties utilize a common methodology. Each year the department shall report to the

¹ The counties identified in subsection (5) are: Baker, Crook, Deschutes, Harney, Lake, Malheur and Union.

commission the amount of new direct impacts in each PAC. The report shall be coordinated with and made available to all affected counties."

As you well know, all laws can be changed by the appropriate decision makers during an open, public process. The purpose of the second sentence added to OAR 660-023-0115(15) is to clearly identify that the baseline would not, and could not, be changed by any level of agency staff. This does not create any special authority for the commission. Instead, it simply reiterates what the existing process is so that there can be no misunderstanding. Furthermore, the language clarifies that a commission rule revision would never be undertaken without the direct involvement of the effected counties. This provision is a clear expression of commission intent and commits the department to involve our local partners in a meaningful way that may not be otherwise required by the ordinary rulemaking process. The amendment to this language adopted by LCDC improves upon the both of these requirements.

Most specifically, you have asked about the meaning of the term "coordinated." The department draws guidance for understanding this term from multiple locations. ORS 197.015(5) provides this definition of coordinated:

"A plan is 'coordinated' when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible."

Goal 2 also specifically refers to that definition of "coordinated" in ORS 197.015(5). Additionally, the commission has previously stated the coordination requirement as follows;

"the coordination requirement is satisfied where Metro has engaged in an exchange of information regarding an affected governmental unit's concerns, put forth a reasonable effort to accommodate those concerns and legitimate interests as much as possible, and made findings responding to legitimate concerns." LCDC Order 05-WKTASK-001673 at 10.

Therefore, with regard to the revising the baseline in the Central Registry based on better information, "coordinated" means the commission will engage in an exchange of information with the counties identified in section (5) regarding their concerns, put forth a reasonable effort to accommodate those concerns and legitimate interests as much as possible, and include findings in the staff report responding to legitimate concerns. This is a legalistic way of saying that in the unexpected instance that the baseline is proposed to be revised either up or down, the commission will work with the counties to facilitate the best possible outcome.

I trust this information has been helpful. Please do not hesitate to contact me or Jon if you have additional questions or thoughts to discuss.

Sincerely,



Jim Rue
Director