

MINUTES
UMATILLA COUNTY BOARD OF COMMISSIONERS
Meeting of June 29, 2022
9:00 a.m., Room 130, Umatilla County Courthouse
Pendleton, Oregon

Commissioners Present: Chair John Shafer, Vice-Chair Dan Dorran, and Commissioner George Murdock (attending virtually)

County Counsel Doug Olsen

Guests Present: Darrin Umbarger, CEO - Mobility Matters; Blue Mtn. Alliance: Dave Price, President, Ann Jolly and Richard; Sheriff’s Office: Sheriff Rowan, Capt. Paul Wolverton; Suni Danforth, Granella Thompson; Planning Department: Bob Waldher, Director, Megan Davchevski, Planner; Tom Fellows, Public Works Director; Robert Pahl, Chief Finance Officer; Dan Lonai, Administrative Services Director

Video link or Calling in: Alisha Lundgren, Deputy Director, UCo Health; Tim McElrath, IT (+see list of attendance, copy on file)

CALL TO ORDER: Chair Shafer called the meeting to order at 9:00 a.m. He reminded all that the meeting is a public forum and there is a call-in option provided. There is time on the agenda to provide input (or for hearings) to provide comment. The meeting is being video and audio recorded and minutes will be taken. Also, meetings are now live-streaming. Comments will become part of the meeting record. If persons wish to speak before the Board, please identify yourself and state where you live in order to be heard on the record – also note if you are speaking on behalf of others.

Pledge of Allegiance

Awards/Correspondence/Recognitions. – None

Minutes – Commissioner Dorran moved to approve the minutes of the 5/24/22 meeting. Seconded by Commissioner Murdock. Carried 3-0.

Additions to Agenda – None.

Public Comments

Dave Price, 80488 Zerba Rd., Athena. He represents Blue Mountain Alliance as its president. BMA has been existence for many years, primarily dealing with an ordinance in question regarding the wind projects, which has been ongoing for 10-15 years. A revised ordinance was approved in June 2011, then challenged, and then it took effect in June 2013. In its proposed order, DOE/EFSC took the position to ignore part of the ordinance (regarding a 2-mile setback). This surfaced with their draft order in April or so of 2022. In essence, due to the fact applicable substantive criteria of the 2-mile set back didn’t meet their definition, it therefore wasn’t required. He feels it should be legally challenged. Supreme Court ruled in 2011-13. He handed to Chair Shafer a copy of letter from BMA’s attorney Dan Kearns, which plainly says the 2-mile set back should stand, legally. The county as the Advisory Group according to OAR, if submitted, it shall be applied. In fact, the county submitted testimony that the 2-mile set back and ordinance met the substantive requirement. In all DOE and EFSC records, their position hasn’t changed, saying the 2-mile setback is not a requirement. This ordinance must be followed. He urged the Board to contact the DOE/EFSC to make these points known in follow up before a siting decision is made. This is a precedent and will have impact on future projects in Umatilla County.

Chair Shafer: is well aware of this; he is in favor of the 2-mile set back, and not in favor of it not being included in DOE/EFSC's decision.

Richard Jolly, 54462 Upper Dry Creek Rd., Weston. In contact with DOE (Karen Sloan), the agency is writing up a proposed order – the stance is that a determination has been made, and they are going to overlook our ordinances. They are basing it on a case (he handed a cover page of the case to Chair Shafer), where an administrative law judge made decision. It didn't go to the Supreme Court like the BMA case. This is in their records. How can they overlook what we have already done? He then read a summary of background and how cases relate to Umatilla County's Nolin Hills Project – record must include testimony of all related issues. He urged defending our county ordinances.

Suni Danforth, 225 Nagle Ave., Milton-Freewater. She supported the BMA information noted previously. Today, to speak into the record, she urged the county to get a land use attorney to hold EFSC to the case determination of BMA v. EFSC. ODOE has land use attorneys. The Nolin Hills project will set precedent in the county. The problem is EFSC is not recognizing the Supreme Court case, that it is substantive criteria. She pointed out the county's fiduciary duty and due diligence regarding this project.

On a different topic, when is the public hearing set for discussion of a county manager? Chair Shafer advised it is still in preliminary discussions and no hearing is set at this time. Ms. Danforth then noted she didn't realize from the county's website that public Board meetings can be accessed remotely; she suggested it might be more helpful to the general public if posted more clearly.

Doug Olsen talked about the letter by Bob Waldher (Planning Director) referenced previously, the Board submitted a letter so has standing in the case. Only a draft Order has been issued. Chair Shafer expressed concern regarding a decision of DOE/EFSC and wants to be sure the county has standing. Mr. Olsen advised a proposed order was sent out and the next step is waiting until there is an official decision by EFSC.

Commissioner Murdock reminded all that he is in agreement with Chair Shafer's comments. But, he will recuse himself from the specific Nolin Hills project although any recusal shouldn't be made more broad.

Granela Thompson, 51949 Johnson Rd., Weston. She handed out information for each commissioner. People have power over government. She is concerned about rules over people by unelected people (EFSC/DOE). She spoke to the 2-mile set back (see handouts). Wind turbines cause issues and the 2-mile set back is important. She urged the Board to stop the roll-over by unelected bureaucrats. She is serious about health and safety – please defend this.

There were no more comments in person (and online). Chair Shafer thanked all for attendance. He advised he would make a request to have the county IT address the online comments made by Ms. Danforth (website/ remote attendance option).

Mr. Olsen: talked about serial meetings; that is, contacting multiple commissioners can constitute a public meeting. Please just go to one Commissioner – Dorran, in this case. In a public meeting is the place to address the whole Board (or at least two commissioners, which constitutes a quorum).

Business Items

1. Mobility - Darrin Umbarger. Clearview Mediation, 2442 SW Nye, Pendleton. Mr. Umbarger submitted a Presentation + 2 videos of Pendleton businesses regarding the potential for tourism promotion aimed at people with disabilities. He is looking at a cost of \$2,500 each vs. \$3,500, for videos showing potential barriers in businesses or tourist facilities. He estimates \$625,000 for the whole county with the main focus on people with disabilities. It helps the economy, bringing people in to spend money. It would start at area Chambers. Chair Shafer advised that he's visited with Karie Walchli, County tourism coordinator. She couldn't be here today, but she will speak directly with Mr. Umbarger soon. He pointed out a business agenda item has been

added to discuss setting aside funds for grants to focus on what was presented. Commissioner Dorran asked, who would own the videos? Mr. Umbarger: businesses would own their individual video (they would have a flashdrive), individual town chambers, and Travel Oregon. This would be a pilot program starting in Oregon. All has to be consistent; it would go through “Mobility Matters”. Travel Oregon would hold the main website. He highlighted the last slide of the presentation: “Disability Inclusion is NOT about ADA Compliance. It is about creating equitable experiences.”

In response to Commissioner Dorran’s question, Mr. Olsen noted the county grants are not limited to non-profits. Commissioner Murdock noted there’s a lot of interest in this project. He met with Mr. Umbarger at Clearview Mediation to see the concept. Regarding potential action by the Board, latitude should be given to chambers of commerce that Umatilla County is handicap friendly and tourism opportunities are here. **Commissioner Murdock moved for approval to go forward with economic development funding of \$25,000 for grants to support tourism programs in Umatilla County for people with disabilities.** Mr. Olsen advised Board action today is just to establish the grant funding process. Agreed. **Seconded by Commissioner Dorran. Carried 3-0.**

2. Transportation Committee Appointments. Presented by Megan Davchevski, Planner & Transit Coordinator. Appointments to the Umatilla County Transportation Advisory Committee are before the Board for approval. This committee is new and, from previous Board action, one combined committee came from two committees. Eight positions are open. She talked about the process; three appointments are for a two-year term and the six remaining appointments are for a four-year term – all beginning 7/1/22. **Commissioner Dorran moved to adopt Order No. BCC2022-042. Seconded by Commissioner Murdock. Carried, 3-0.**
3. Sheriff Software Agreement. Presented by Capt. Paul Wolverton. UCSO. Approval is sought for a renewal of 5-year agreement with Cellebrite Service, used for downloading investigations. It is an annual software update. However, during review, it was discovered the price is going up. But, there are discounts with a multi-year commitment. With discounts, it would be \$4,100 for five years (normally the price is \$6,100/year). **Commissioner Dorran moved to approve the renewal agreement as outlined for a total amount of \$20,500. Seconded by Commissioner Murdock. Carried, 3-0.**
4. Sheriff Vehicle Lease Payment. Presented by Capt. Wolverton. Previous action (3/16/22) was taken for eight Dodge Durango Police vehicle leases, but it was based on an initial quote, not the actual agreement. Approval is sought for an additional \$12,162/year for four years for the vehicles. A total difference of \$48,648. **Commissioner Dorran moved to approve the additional costs of the vehicles as outlined. Seconded by Commissioner Murdock. Carried, 3-0.**
5. Sheriff On-Call Employment. Presented by Sheriff Rowan. This is regarding a long time senior detective who is retiring. The employee is also an expert in the Cellebrite devices (discussed earlier). Approval is sought for the retiring employee to come back part-time with current wage on an hourly on-call basis as provided for in Personnel Policy 4.7. The investigative expertise and training capability is invaluable. **Commissioner Dorran moved to approve. Seconded by Commissioner Murdock. Carried, 3-0.**
6. Transport Officer Position. Presented by Sheriff Rowan. He has been working on secure transports over last few months with CCS/Kimberly Lindsay. Approval is sought for an additional FTE (at this time would total 3 for transport) to provide secure transports. The cost of the additional position is \$147,500, which CCS has approved to reimburse. There are still ongoing conversations – this is an initial program and ongoing evaluation will occur. A contract would need to be made. There is no general fund impact. Chair Shafer expressed appreciation of Sheriff Rowan obtaining funding. **Commissioner Dorran moved to approve a third Transport Officer position as outlined. Seconded by Commissioner Murdock. Carried, 3-0.**
7. Roller (Public Works) Purchase. Presented by Tom Fellows, Public Works Director. A request for proposals was issued for a used smooth drum roller (for compaction). It would be a new piece of equipment. Two responses were received; the recommendation is to go with Modern Machinery, a 2017 Dynapac model roller

with 703 hours in the amount of \$101,900. **Motion was made by Commissioner Dorran to approve the purchase. Seconded by Commissioner Murdock. Carried, 3-0.**

8. Mac Hoke Road Bridge. Presented by Mr. Fellows. This is also known as the Nolan Bridge. A request for proposals was issued for the purchase of a new bridge structure. The short timeline was an issue. One proposal was received from Ariz Co LLC to deliver a modular structure in the amount of \$934,850. He believes this bridge will serve the county very well. **Commissioner Dorran moved to approve a contract for purchase as outlined. Seconded by Commissioner Murdock. Carried, 3-0.** In response to Commissioner Murdock regarding funding source, Commissioner Dorran explained the county received an immediate opportunity grant from the State of Oregon (50% of the cost with a limit of about \$1.3 million).
9. Digitized Pilot Project Grant. Presented by Commissioner Dorran. Umatilla County was awarded \$250,000 through the 2022 Oregon Legislature for a pilot program to digitize all county roads. This project will be the first in the state. Mr. Olsen advised that today's action is for initial acceptance of the award from the state. **Commissioner Dorran moved to approve the grant as outlined and authorize the chair to sign documents. Seconded by Commissioner Murdock. Carried, 3-0.**
10. Psilocybin Election. Presented by Bob Waldher. Ballot Measure 109 authorizes the manufacture and use of Psilocybin products under controlled supervision and establishes regulatory framework for oversight and administration. The Oregon Revised Statutes are similar to marijuana sales. However, in this case, the county must opt out if it does not want to allow the use, and must be put to the voters. He further explained that ORS475A goes into effect on 1/1/23. Unlike the marijuana legislation, all jurisdictions are treated as having "opted in" to these regulations unless the Board refers the matter to the voters at the next general election and the voters elect to "opt out". The deadline to get the measure on the ballot is 8/19. If there's interest to opt out, drafting of the measure should begin soon. It is too early to know exactly what's entailed (related to incorporated cities – question by Commissioner Dorran), but he does know it is limited to commercial, industrial and EFU lands; therefore, county jurisdiction. Mr. Olsen added the vote would be for all in the county, although rules are not available as yet. At this point, it is initial discussion. If the Board wants to go to vote, there would be a proposed ordinance to get the question on the ballot. There is time at the next BOC meeting (7/6). Mr. Waldher and Mr. Olsen will work on clarification. Mr. Waldher also noted that 15% of sale proceeds would go to OHA and not come back to the county. **Commissioner Dorran moved to approve moving forward with starting the process to opt out of Ballot Measure 109 as outlined (to go to the voters). Seconded by Commissioner Murdock. Carried, 3-0.**
11. Onsite Septic Program. Presented by Alisha Lundgren, UCo Health Deputy Director. Approval is sought for an agreement to conduct onsite septic programs in Gilliam County – similar to the Morrow County program. Commissioner Murdock added, as a county with regional capacity, he appreciates the willingness and ability to reach out to other counties to perform some responsibilities. **Commissioner Murdock moved to approve conducting onsite septic system activities in Gilliam County, and to approve signing the agreement. Seconded by Commissioner Dorran. Carried, 3-0.**
12. Media Contract. Presented by Ms. Lundgren. The current contract with Eagle Media Group LLC will end 7/31/22. There will be about a 60% cost increase with doubling the advertising. The contract comes with interpretation/translation support for all messages. There is no general fund impact; all funds come from the Oregon Health Authority. Commissioner Dorran noted this is important media outreach to Hispanic speaking residents of the county. **Commissioner Dorran moved to approve the contract and expense of \$90,000 for 12 months. Commissioner Murdock appreciates the inclusion and seconded the motion. Carried, 3-0.**
13. Chiller Replacement. Presented by Mr. Olsen (for Mr. Tanner, Facilities Manager). A request for proposals was issued for chiller replacement at the Stafford Hansell Government Center. One proposals was received from HMS Commercial Service in the amount of \$126,437. A limit of \$125,000 was made by the Board previously when the RFP was approved. He advised that the Board can waive that limitation if it chooses.

Commissioner Dorrان moved to approve the contract with HMS Commercial Service in the amount of \$126,437 for chiller replacement. Seconded by Commissioner Murdock. Carried, 3-0.

14. Courthouse Dampers. Presented by Mr. Olsen. As part of the courthouse air handler replacement project, it was discovered that the outside air and return dampers needed replacement. Approval is sought for a change order to HMS Commercial Service to include replacement of air dampers in the amount of \$49,982. **Commissioner Dorrان moved to approve as outlined. Seconded by Commissioner Murdock. Carried, 3-0.**
15. Maintenance Payable. Presented by Mr. Olsen. Approval is sought for a payable for electrical material and lighting to Double S Electric, Inc. at the new maintenance facility in the amount of \$12,624.28. **Commissioner Dorrان moved to approve the payable. Seconded by Commissioner Murdock. Carried, 3-0.**
16. Community Corrections Employment. Presented by Mr. Olsen. Request is made to authorize a recent community corrections retiree to continue temporary employment for a period of time from August 1 under Personnel Policy 4.7. **Motion was made by Commissioner Dorrان to approve. Seconded by Commissioner Murdock. Carried, 3-0.**
17. Election Certification. Presented by Dan Lonai, Administrative Services Director. The results of the May 7, 2022 election (commissioner positions #1 and #2) have been issued. The Board will need to provide a letter accepting the results. **Motion was made by Commissioner Dorrان to accept the election results and authorize signing the letter. Seconded by Commissioner Murdock. Carried, 2-0.** Commissioner Shafer abstained as his name is on the election results.
18. Property/Liability Insurance. To be presented at the next meeting (July 19).
19. Property Sales. Presented by Mr. Olsen. As part of an auction of delinquent property taxes properties on May 2, nine properties didn't sell. The process is to accept written bids on the unsold properties for 30 days, then to open bids. Bids were received for three properties (all Pendleton houses), which meet the statutory minimum. Separate actions are needed. (1) 1530 SE Alexander Place, high bid of \$18,600 by Pierson Pahl. **Commissioner Dorrان moved to adopt Order No. BCC2022-039. Seconded by Commissioner Murdock. Carried, 3-0.**
(2) 514 SE 13th, high bid of \$41,011 by David & Kathy Zinter. Commissioner Dorrان recused from the vote. **Commissioner Shafer moved to adopt Order No. BCC2022-040. Seconded by Commissioner Murdock. Carried, 2-0 (1 recusal, Commissioner Dorrان).**
(3) 44786 Mission Road, high bid of \$61,000 by Pierson Pahl. **Commissioner Dorrان moved to approve Order No. BCC2022-041. Seconded by Commissioner Murdock. Carried, 3-0.**
Mr. Olsen noted the remaining properties are available for bid, but it may be a while. They will come before the Board at a later date.
20. ARPA Funding. **Commissioner Dorrان moved to adopt Order No. BCC2022-044. Seconded by Commissioner Murdock.** This is a request to approve allocation of additional ARPA funds now received (second go-round). As done with the first half of the funding, focus is on one-time funding and projects that won't require ongoing funding to maintain them. As before, there is funding for joint investments with local communities to provide assistance in development and restoring the economy or assistance for very small communities with limited resources. **Carried, 3-0.**
21. CDDP Payable. Presented by Mr. Olsen (for Kim Beck, CDDP Director). Approval is sought to pay for reconstruction at a client's residence to Chris Hopkins Construction, Inc. in the amount of \$11,217.73. Funds are paid through reimbursement by the State Office of Developmental Disabilities. **Commissioner Dorrان moved to approve. Seconded by Commissioner Murdock. Carried, 3-0.**

22. Pendleton Payable. Presented by Mr. Olsen. A payable to the City of Pendleton is before the Board for approval due to the amount. From the 2019 flood, approval is sought to pay the 25% deductible for FEMA, which was previously agreed to be split in one-thirds. The county's portion is \$16,022.55 (for McKay Creek sediment removal). **Commissioner Dorrان moved to approve the payable. Seconded by Commissioner Murdock. Carried, 3-0.**
23. Enterprise Zone Expansion. Presented by Mr. Olsen. Request is made to expand the greater Umatilla Enterprise Zone to include recently annexed property and to match the city limits. This is another 180 acres located along Powerline Road. **Commissioner Dorrان moved to adopt Order No. BCC2022-042. Seconded by Commissioner Murdock. Carried, 3-0.**
24. Fairgrounds Infrastructure Grant. Presented by Commissioner Dorrان. One million was awarded by the legislature for infrastructure at the fairgrounds. The county leases the EOTC property. Discussions have been had with the City of Hermiston and EOTEC, and with a lot of growth, it was agreed to use the funds to expand the barns at EOTEC to handle additional exhibitors. The \$1 million is also being added to a \$277,000 grant awarded a prior year to the owners of fairgrounds that had to go toward capital projects for the fair. This will be a start to the critical expansion. **Commissioner Dorrان moved to approve grant with action as outlined. Seconded by Commissioner Murdock, with a possibility (although remote) of a conflict. Carried, 3-0.**
25. Supplemental Budgets – Public Hearing. Chair Shafer called the public hearing to order at 10:50 a.m. Robert Pahl, CFO, gave the staff report. There were two supplemental budgets, Budget Orders numbers: 2022-76 (Human Services-Subcontracted Services Program) requires increases in State Revenue of \$20,000 and in Materials & Services of \$20,000. 2022-77 (Court Security Program) requires increases in Transfers In of \$40,000 and in Personnel Services of \$40,000. There were no questions from the Board or the public. Chair Shafer closed the public hearing at 10:51 a.m.

**In the matter approving Supplemental Budgets pursuant to ORS 294.471 for FY ending 6/30/22:
Commissioner Dorrان moved to adopt Budget Order No. 2022-76 (Program 5497 – Human Services-Subcontracted Services). Seconded by Commissioner Murdock. Carried, 3-0.
Commissioner Dorrان moved to adopt Budget Order No. 2022-77 (Program 9079 – Court Security).
Seconded by Commissioner Murdock. Carried, 3-0.**

26. Budget Transfers. Mr. Pahl presented. There were eight budget transfers, Budget Orders numbers: 2022-75, (Special Transportation-STIF Program) requires an increase in Materials & Services of \$100,000 and a decrease in Contingency of \$100,000. 2022-78 (General County Program) requires an increase in Transfers Out of \$40,000 and a decrease in Contingency of \$40,000. 2022-79, (General Fund-Computer Information Services Program) requires a decrease in Materials & Services of \$16,000 and an increase in Capital Outlay of \$16,000. 2022-80 (Emergency Management Grants Program) requires an increase in Materials & Services of \$4,000 and a decrease in Contingency of \$4,000. 2022-81, (Stimulus Reserve Program) requires an increase in Materials & Services of \$400,000 and a decrease in Capital Outlay of \$400,000. 2022-82 (Human Services-Mental Health Reserve Program) requires an increase in Materials & Services of \$250,000 and a decrease in Contingency of \$250,000. 2022-83, (Community Justice-Transitional House Program) requires an increase in Materials & Services of \$2,000 and a decrease in Contingency of \$2,000. 2022-84 (General Fund-General County Program) requires a decrease in Personnel Services of \$30,000, an increase in Materials & Services of \$70,000, and a decrease in Contingency of \$40,000.

**In the matter approving Budget Transfers pursuant to ORS 294.463 for FY ending 6/30/22:
Commissioner Dorrان moved to adopt Budget Order No. 2022-75 (Program 1014 – STIF Program).
Seconded by Commissioner Murdock. Carried, 3-0.
Commissioner Dorrان moved to adopt Budget Order No. 2022-78 (Program 9001 – General County).
Seconded by Commissioner Murdock. Carried, 3-0.**

Commissioner Dorrان moved to adopt Budget Order No. 2022-79 (Program 3522 – Computer Information Services). Seconded by Commissioner Murdock. Carried, 3-0.

Commissioner Dorrان moved to adopt Budget Order No. 2022-80 (Program 1585 – Emergency Management Grants). Seconded by Commissioner Murdock. Carried, 3-0.

Commissioner Dorrان moved to adopt Budget Order No. 2022-81 (Program 9190 – Stimulus Reserve). Seconded by Commissioner Murdock. Carried, 3-0.

Commissioner Dorrان moved to adopt Budget Order No. 2022-82 (Program 5450 – Mental Health Reserve). Seconded by Commissioner Murdock. Carried, 3-0.

Commissioner Dorrان moved to adopt Budget Order No. 2022-84 (Program 1531 – Community Justice-Transitional Housing). Seconded by Commissioner Murdock. Carried, 3-0.

Commissioner Dorrان moved to adopt Budget Order No. 2022-84 (Program 9001 – General County). Seconded by Commissioner Murdock. Carried, 3-0.

27. Fee Ordinance Amendment – Public Hearing. Presented by Mr. Olsen. Chair Shafer called the public hearing to order at 10:56 a.m. The proposed fee changes from the departments for the annual update to the comprehensive fee ordinances are before the Board for consideration. This is the second reading. No fees were added since the first reading on May 24. He elaborated about increases: Harris Park – sets consistent prices with \$30/night for all sites and \$40/night for cabins. Shelter fees: \$50 for small; \$100 for large. District Attorney fees mainly due to changes in discovery fees. Public Health and Land Use (rural addressing) also updated.

Chair Shafer asked for any public comment. None were heard. He closed the public hearing at 10:58 a.m. **Commissioner Dorrان moved to adopt Ordinance No. 2022-05. Seconded by Commissioner Murdock. Carried, 3-0.**

Executive Session – none.

Commissioner Reports

Commissioner Murdock: Spoke about his memo regarding recent flood damage in the Echo area wherein an allocation of \$400,000 was authorized. Invoice was received for the cost of repairs and a balance is remaining. He asked how it should be handled? Commissioner Dorrان met with some townsfolk on 6/28 and a larger meeting is scheduled tomorrow with more state/federal reps/agencies; he is not sure all expenses have been received. Commissioner Murdock was fine with the expenditure as it is now, but wanted some accountability regarding the balance at the City. Commissioner Dorrان noted a lot of eyes are on the process and expenditures. He agreed only reimbursement should be based on what meets requirements. Mr. Olsen added that Board action and approval was up to \$400,000.

Chair Shafer, for the record, then read the thank you from Dave Slaght, City Administrator for Echo (included in Commissioner Murdock’s weekly update (6/28): *“Thank you for the thoughtful message in today’s Weekly Update. All three of you deserve a lot of credit for saving those homes and I want to personally thank you for the support!! In all my 33 plus years of public service, I have never seen this kind of deep rooted support and trust!”* Dave Slaght.

Meeting adjourned at 11:02 a.m.

Melinda Slatt

Executive Secretary – Board of Commissioners

