

BE IT REMEMBERED THAT the Crook County Court met in a regularly scheduled Open Session meeting on October 4, 2017 at 9:00 a.m. in the County meeting room located at 320 NE Court Street, Prineville, Oregon. In attendance were: County Commissioner Jerry Brummer; County Commissioner Brian Barney; County Counsel Jeff Wilson; Assistant County Counsel Eric Blaine and County Court Secretary Colleen Ferguson. County Judge Seth Crawford was not available for today's meeting.

Members of the public signing the attendance log were: Muriel DeLaVergne-Brown, Crook County Health Department (CCHD); Vicky Ryan, CCHD; John Giorgi, Paulina; Cheryl Seely, County Clerk; Ann Beier, Community Development; Louis Seals, Community Development; MaryLou Bernard, Prineville; Gail Merritt, Prineville; Buzzy Nielson, Library Director; Russ Rhoden, Ochoco Irrigation District; County Sheriff John Gautney; Stanley Flynn, Prineville; Jane and Gordon Aggers, Prineville; Larry York, Prineville; Lee Garcia, Powell Butte; Joyce Garcia, Powell Butte and C. Macbeth, Central Oregon LandWatch, Bend.

The media was provided public notice of the meeting.

Commissioner Jerry Brummer opened the meeting and asked Stanley Flynn to lead the Pledge of Allegiance.

Commissioner Brummer asked Pastor Mike Wilson to offer today's prayer.

CONSENT AGENDA

- 1. Approve Minutes of September 6, 2017, September 20, 2017**
- 2. Order 2017-57 Removed for further review**
- 3. Approval of Community Corrections Work Crew Tech Personal Action Form**
- 4. Approve Declaration of Condominium Ownership for Prineville Hanger Condominium**
- 5. Approve Second Easement Relocation Agreement , Broadwater LLP**
- 6. Approve First Amendment to IGA 154107 Financing of Public Health Services**
- 7. Approve revised VEBA HRA Trust Participation Agreement**
- 8. Approve Executive Mandate Munis Financial/HR System Software**
- 9. Approve Mylar, 5 lot subdivision, Sage Mountain**
- 10. Approve Mylar, Phase 5 Brasada**
- 10A Approve Transfer of approximately 4.5 acres of OID irrigation water rights from Crook County Fairgrounds property to County property located on West side of South Main Street.**
- 10B Approve Professional Services Contract with Summer Sears for HRIS Consulting**

The Court reviewed the Consent Agenda. There were no changes.

Motion

Commissioner Barney moved and Commissioner Brummer seconded the motion to approve the Consent Agenda as presented. The vote was 2-0, motion carried.

Public Hearing, Ordinance No. 301, amending County Code Chapter 5.04, article one, regarding outdoor mass gatherings and declaring an emergency, first reading, public hearing

Assistant County Counsel Eric Blaine presented the information on the purpose of Ordinance 301. This ordinance is the result of a debriefing and discussion of several departments involved in the mass gathering events held during the Eclipse. The Ordinance includes an emergency clause and if approved, will go into effect immediately after the second hearing.

Planning Director Ann Beier presented the staff report for Ordinance 301, and she thanked Mr. Blaine for drafting the ordinance following the debriefing meeting. Ms. Beier said the County is in compliance with the States requirements for mass gatherings, but based upon this summer's gatherings, some amendments are advisable to protect the County such as security deposits, inspections and fees due to the scale of at least one mass gathering held this past summer during the Solar Eclipse. Mr. Blaine explained that this removes some built in contingencies but gives the County the ability to put conditions on the gatherings with a new permit form that is more formal and will include a check off list from all the departments involved. This will be more rigorous, but will be better for both the County and the applicant. The timing of the steps involved in the process was discussed.

Motion

Commissioner Barney moved to read Ordinance 301 by title only. Commissioner Brummer seconded the motion. The vote was 2-0, motion carried.

Ordinance 301, by title only, was read by Commissioner Barney. Commissioner Brummer then opened the public hearing.

Public Hearing

John Georgie, 71200 SE Paulina Suplee Hwy, Paulina, presented information on the music gathering held on his property last summer. He said it was a successful gathering, smaller than some others, and would like approval to go forward with the application for the next gathering scheduled for next summer. He is concerned about the time required for approval. He needs to get the advertising out and the ball rolling for next summer's event. He feels that everyone worked well together last year through the application process. He commented on how bad the Las Vegas shooting was, and said he felt the mass gathering on the prairie last summer during the Eclipse got way out of hand.

There being no additional comments from the public received, Commissioner Brummer closed the public hearing.

Staff

Mr. Blaine reviewed the timing for the applications, with some portions of the timing shortened. He explained that people will have time to think about it and present written or oral comments at the next public hearing on October 18, 2017. Commissioner Brummer and Mr. Blaine discussed that the Ordinance 301 will be more consistent with the number of people, not being as rigid as the former ordinance, and the new regulations will be tailored to the size of the event. The applications will be reviewed on an individual basis for standards.

Sheriff Gautney would like part of the ordinance to look more closely at the security and security vetting for future events. He said there were problems with the security staffs at both events, and the security

companies were not vetted with the Sheriff's Office. He would like the traffic plans to be examined and approved prior to the event.

Roadmaster Bob O'Neal agrees with the Sheriff regarding the traffic plans. He had reviewed the traffic plans and when the event occurred it was completely opposite of what was expected. He agreed with looking at each event individually based on each events particular needs and impacts. .

Public Health Director Muriel DeLaVergne-Brown commented that the Environmental Health Department worked well with the applicants at getting the permits through and expects that future applications will be handled in a similar fashion.

Barb Franano, 12001 Damzel Fly Lane, Prineville, said she lives up close to Ochoco Reservoir and was one of those people stuck in traffic on highway 26. She was headed to Granite for a reunion and had all the food in her vehicle, but she could not get through the traffic. After waiting for over an hour in traffic, she decided to return to her home and try again early in the next morning. She was then able to get through. She said she feels there was no one monitoring traffic from the Ochoco Reservoir on up to the event. Commissioner Barney explained that there was monitoring with the Sheriff's Deputies, Police and Fire and Rescue. The traffic just got out of hand.

Commissioner Brummer discussed the morning review of the Symbiosis event at the Wednesday morning "What's Brewing" event, and he said it makes sense to change the ordinance. He believes the County will learn more each year after an event.

Commissioner Bummer closed the hearings on Ordinance 301. The next public hearing for Ordinance 301 will be on October 18, 2017.

Public Hearing, Ordinance #302, amending Crook County's zoning map and the City of Prineville UGB Boundary and declaring an emergency, first reading, second reading, public hearing, Vote

Staff

Ms. Beier, presented Ordinance 302, that would adopt a decision made during a joint meeting of the County Court and the City of Prineville City Council to move property from County Industrial to City of Prineville Industrial, and codifying a decision already made, enacting the decision made at last week's joint meeting with the City held on September 26, 2017.

Motion

Commissioner Barney moved to read Ordinance 302 by title only. Commissioner Brummer seconded the motion. The vote was 2-0, motion carried.

Commissioner Barney read Ordinance 302 by title only. Commissioner Brummer opened the public hearing.

There being no comments received, Commissioner Brummer closed the public hearing.

Second Reading, Ordinance 302

Motion

Commissioner Barney moved to read Ordinance 302 by title only for the second reading. Commissioner Brummer seconded the motion. The vote was 2-0, motion carried.

Commissioner Barney read Ordinance 302 by title only. Commissioner Brummer opened the public hearing.

There being no comments received from the public, Commissioner Brummer closed the public hearing.

Motion

Commissioner Barney moved to adopt Ordinance 302 as presented. Commissioner Brummer seconded the motion. The vote was 2-0, motion carried.

Ordinance 302 contains an emergency clause, and because of this clause, the ordinance will go in effect immediately.

Proclamation, “Friends of the Library Week” October 15 through October 21, 2017

Buzzy Nielson, Library Director and Barb Franano, President of the “Friends of the Library”, presented the proclamation for “Friends of the Library Week” October 15, 2017 through October 21, 2017. Mr. Nielson explained that the “Friends of the Library” had been a 501C3 non-profit corporation since 1997 and every year does fundraising through used and donated book sales and donates \$20,000 to the Library to be used on projects such as the teen room, the children’s library and other public Library projects. Mr. Nielson said these are tireless volunteers that go through many, many books that they sell, and then donate the proceeds to the library.

Ms. Franano said the Friends are happy to support the library with what they need, and this is all done with used and donated books. Mr. Nielson said the History Collection has received many donations of historical books regarding the community and citizens. The “Friends of the Library” also work in conjunction with the Bowman Museum to provide a public presentation each Thursday night during October of interesting subjects that have to do with the state or the local area.

Commissioner Brummer read the proclamation and thanked the “Friends of the Library” for all their hours of dedication to the community with their book program.

Presentation and funding assistance request for Christmas in the Pines and the need for a golf cart to assist the volunteers in setting up the project.

Stanley Flynn and Gail Merritt, members of the group of volunteers that have created the Christmas in the Pines Christmas lighting event program, presented information on the success of the program. Over the first four years, five tons of food has been received for entrance to the event, and that food has been provided to the local food banks. This is a small group of volunteers that present this event out of love, and it is exciting to see the program grow. Some of the volunteers are getting older, and it is harder to make 40 or more trips around the Fairgrounds setting up the lighting displays. The Christmas in the Pines has received some money for a golf cart, but had to use some to repair displays for over 5000 people to enjoy. This year, there will hopefully be even more people from out of town as the result of advertising in

other areas. Today, Ms. Merritt and Mr. Flynn are asking the Court for \$1,000 to go along with the Christmas in the Pines funds to purchase a used golf cart to help the volunteers get around to assemble the display.

The Court thanked the group for all their work to bring such a wonderful lighting display to our community. Discussion was held on the source of the funding. Since this is a wonderful event to draw people to our community and spur on the economy with purchase of food and gas, the Court agreed to use Video Lottery funding to promote Economic Development.

Motion

Commissioner Barney moved to approve the use of \$1,000 from Video Lottery to be used along with the funds from Christmas in the Pines program to purchase a used golf cart. Commissioner Brummer seconded the motion. The vote was 2-0, motion carried.

Order 2017-69, BOPTA (Board of Property Tax Appeals) Pool appointments for terms beginning October 15, 2017 and ending June 30, 2018

County Clerk Cheryl Seely read into the record the date of the BOPTA Board term and the names of those serving in Pools number 1 and number 2.

Motion

Commissioner Barney moved to approve Order 2017-69 appointing the BOPTA Pools. Commissioner Brummer seconded. The vote was 2-0, motion carried.

Consider recommendation for award of 2017-2019 snow plow services contract

Mr. Blaine provided a review of the first RFP put out for the snow plow services that ended with one bid received and that one bid being non-responsive. Another RFP was published and resulted in two bids received. One was lower but non-responsive in that it did not have all the certifications and did not have the information regarding efforts to employ local workers. The second bid from SMAF Construction included the certifications, has the wording regarding local employment and has performed satisfactorily in previous years, and the price is reasonable.

Motion

Commissioner Barney moved to accept the SMAF Construction bid as the lowest responsive bidder and to approve signing the contract with SMAF outside of Court. Commissioner Brummer seconded the motion. The vote was 2-0, motion carried.

Consider recommendation for award of sidewalk repair project

Mr. Blaine presented information regarding sidewalk repair work for the County. In April, an informal RFP bid for sidewalk repair was sent out to five businesses, and no bids were received. Recently, another RFP was advertised, and two bids were received. There is a big disparity in the bids with the low bid at \$15,000 from Three Bar Construction and the high bid at approximately \$83,000. Mr. Blaine said there is concern that there may be a problem in that the two bidders may not have read the RFP the same. Mr. Blaine feels it is not the fault of the contractors. He provided two options that the Court might consider. Option 1, is to not move forward with the RFP but to repair each sidewalk individually.

Number 2 option would be to move forward if the Court wishes. The City of Prineville has had good service from Three Bar. Mr. Blaine suggested postponing the beginning of the project to next year after winter. Maintenance Director Greg Hinshaw agrees with the postponement. He recommends taking care of the real problem areas and doing the larger projects in the spring. Discussion was held regarding the problems with tree roots and the sidewalks and doing immediate repair on those areas where it is needed. Discussion was held also on the huge disparity of the bids. Commissioner Barney suggested putting the bid out again next year in early spring with a more thorough scope of work in the RFP. Commissioner Brummer reminded everyone that the train caboose will be located next to the museum soon. The tracks have been set, and this move of the caboose into the display area might also damage the sidewalk.

Motion

Commissioner Barney moved to cancel the informal solicitation of sidewalk repair. Commissioner Brummer seconded the motion. The vote was 2-0, motion carried.

Public Comment

Commissioner Brummer opened the meeting for any public comments. Receiving none, Commissioner Brummer called a five-minute break before convening into the Public Hearing regarding the appeal.

Break for five minutes; reconvene at 10:00 a.m.

Commissioner Brummer reconvened the Court into Open Session at 10:00 a.m.

Public Hearing, Address an appeal of 217-17-000180-PLNG, Central Oregon LandWatch Carol Macbeth appealing County Planning Commission's decision approving a Conditional Use request by Lee and Joyce Garcia for a non-farm residence on an existing 9.3 acres parcel within the County's EFU-3 Powell Butte Area zone.

Commissioner Brummer read the announcement for the public hearing on an appeal of 217-17-000180-PLNG by Central Oregon LandWatch (COLW). He outlined the time lines for the applicant and appellant to state their case and rebuttal.

Staff Report

Planning Director Ann Beier provided the staff report. She informed the Court of a letter received from Ms. Macbeth today, October 4, 2017 and advised the Court that there had not been time to review the letter and it should not be considered today as it is new information. Ms. Beier provided history on the parcel that was originally created in 1970 and approved in 1979 for a doublewide mobile home. Septic and a driveway are on the property, and the Planning Commission found the parcel to be a non-farm dwelling. The parcel is approximately eight to nine acres. Ms. Beier provided information on the soils, the surrounding properties and the uses, the lack of irrigation, the moratorium on water transfers at this time, the Central Oregon Irrigation District lack of interest in expanding to the east, the adverse soil conditions and the fact that no one has approached the owner to use the property since its purchase by the Garcias in 1995.

Applicant

Commissioner recognized Shannon McCabe of Lynch, Conger and McClain, attorney for the applicants Lee and Joyce Garcia.

She provided information verifying the information provided by Ms. Beier. The parcel is an 8.8 non-irrigated parcel with no history of any agricultural use, no forage, only juniper and sage brush on the property and the location being right across from the Shiloh Church which also is non-irrigated.

The hearing for the application was held before the Planning Commission and found to be unsuitable for agriculture. The additional portion of Ms. McCabe's time for presentation was reserved for rebuttal.

Appellant

Ms. Macbeth representing Central Oregon LandWatch provided a packet of additional testimony. Seven copies were provided. A portion of today's written submittal is already in the record, and will be received. The letter from Ms. Macbeth and Exhibit number one will not be received because they constitute new information not already in the record.

She presented information from the NRCS map and record regarding the soil class. She explained the map and said the property could be used if irrigated and ok for dryland wheat and cattle grazing.

Commissioner Brummer commented that it would possibly be good to graze one cow. Ms. Macbeth said that economic feasibility could be considered, but was not the only consideration.

Commissioner Barney spoke on the need to have property that would support many cattle and he sees that economic feasibility is a big part. He addressed the soil profile also and said dry land wheat is not an economic crop. Also, the soil types have a wind erosion problem and in the condition it is now, it is better to have some development on it to hold the soil. He agreed with Commissioner Brummer that one cow can take up to 20 acres to support and the best use for this parcel is to put a dwelling on the property.

Ms. Macbeth said it is presumption and the soil type weighs a lot and raises the bar on the burden of proof.

Commissioner Brummer said he knows the person owning the adjacent property and there is a reason that person has not inquired about leasing the property for agriculture. Some places are a lot better off being used as hobby farms where someone is not trying to make a living on the property. It is all subjective.

Commissioner Barney spoke on the extreme difficulty to get water to the parcel. He said no one could make money on it and most areas have a moratorium on water.

Mr. Wilson advised the Court that some of the material that Ms. Macbeth provided today is not in the record. The letter and first exhibit should not be received because they are new evidence, however, the remaining exhibits (2-5) attached to the letter are part of the record and should be received by the Court. Mr. Wilson recommended not receiving the letter or exhibit one.

Applicant Rebuttal

Ms. McCabe provided information regarding agricultural use. Since 1973, there is no evidence of agricultural use on the parcel. The soil is 40 percent class 7 and is unsuitable for farming. Also, Mr. Garcia has owned the property since 1995 and no one has ever approached him to use the property for agricultural.

Commissioner Brummer closed the public hearing

The Court discussed the soils that are low enough that even if irrigated would not be viable. There is no way for this parcel to be used as a commercial operation and it is not contiguous to any other farming operation. Water is getting very difficult to obtain. Commissioner Brummer said it appears the Planning Commission made the right decision. Commissioner Barney concurred.

Motion

Commissioner Barney moved to support the findings of the Crook County Planning Commission that the property is generally unsuitable to be used as farm use and cannot reasonably be put into farm use. Commissioner Brummer seconded. The vote was 2-0, motion carried.

Mr. Wilson and Ms. Beier will work together to draft a written decision for the Court.

Ms. Macbeth talked with Mr. Wilson and then announced that she was incorrect on her information of viability.

There being no further business requiring action before the Court at this time, Commissioner Brummer adjourned the Court into Executive Session under ORS 192.660(2)(e) for the purpose of conducting deliberations with persons designated by the governing body to negotiate real property transactions and ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

EXECUTIVE SESSION

ORS 192.660(2)(e) for the purpose of conducting deliberations with persons designated by the governing body to negotiate real property transactions.

ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

Following adjournment out of Open Session, Commissioner Brummer convened the Court into Executive Session under ORS 192.660(2)(e) for the purpose of conducting deliberations with persons designated by the governing body to negotiate real property transactions and ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. The Court discussed the matters before them with County Counsel. Following the discussions, Commissioner Brummer adjourned the Court out of Executive Session under and into Open Session.

Open Session

Following adjournment out of Executive Session under ORS 192.660(2)(e) for the purpose of conducting deliberations with persons designated by the governing body to negotiate real property transactions and ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed, Commissioner Brummer convened the Court into Open Session and invited any of the members of public waiting back into the meeting room.

Motion

Commissioner Barney moved to direct staff to contact the attorneys and accept the offer to settle from Symbiosis. Commissioner Brummer seconded the motion. The vote was 2-0, motion carried.

Motion

Commissioner Barney moved to approve the contract as discussed in Executive Session. Commissioner Brummer seconded the motion. The vote was 2-0, motion carried.

There being no further items requiring action of the Court, Commissioner Brummer adjourned the County Court meeting at 11:35 a.m.

The next regularly scheduled Open Session of the County Court is October 18, 2017.

Respectfully submitted,

Colleen Ferguson

Colleen Ferguson
Crook County Court Secretary