**BE IT REMEMBERED THAT** the Crook County Court met in a Regular Session on November 9, 2016 at 9:00 a.m. in the County meeting room located at 320 NE Court Street, Prineville, Oregon. In attendance were: County Judge Mike McCabe; County Commissioner Ken Fahlgren; County Commissioner Seth Crawford; County Counsel Jeff Wilson; Assistant County Counsel Eric Blaine and County Court Secretary Colleen Ferguson.

Signing the attendance log: Pete Sharp, Prineville; Bill Quant, Prineville; Dave Sumner, Prineville; Willis Roberts, Prineville; John Pierson, Prineville; Lynn Arnett, Prineville; MaryLou Bernard, Prineville; Darlene Harpster, Prineville; Crook County HR Teresa Herrmann; Crook County Clerk Cheryl Seely; Jerry Brummer, Commissioner-Elect, Prineville; Brett Nelson, Prineville; Octava Best-Beck, Prineville; Kate Mura Erickson, Prineville; Angie Gilley, Veterans; Lance Stover, Prineville; Crook County HR Sarah Bucholz; Tammy Van Vleet, Paulina/Philomath; Lacey Pedersen, Paulina/Philomath; David Schwab, Prineville; Melissa Scaramuzzo, LCSNW; Andrew Campbell, Counsel; Mark Williamson, CIS; Gail Merritt, Crook County Fair Board; Stephanie Fahlgren, Prineville; Kathy Gray, Treasurer; Laura Fladung, County Treasurer's Office; Casey Daly, Crook County Fairgrounds Manager; David Brock, Prineville; Andy Hermreck, Paulina; Susie Hermreck, Paulina; Rebekah Burkhardt, Sheriff's Office; Michael Ryan, Sheriff's Office; Don Davis, Prineville; Brian Colwell, Prineville; Gary Young, Paulina; Sarah Teskey, Paulina; Norman Smith, Prineville; Tim Ray, Prineville; James Malloy, Prineville; John Giorgi, Paulina; John Gautney, Sheriff; Cheryl Ingersoll, Paulina; Miriam Bernard, Paulina; Bob Brittner, Paulina; James Savage Sheriff's Office; Kinne Callaway, Bend; Joseph Shelz, Prineville; Andrea Rome, Portland; Lyle Byler, Prineville; Patrick Kollodge, Bend; Robert #####, Prineville; Gary Bedortha, Paulina; Terry Hutton, Redmond; Alice Austin, Prineville; Greg Bedortha, Paulina; Wendy Bedortha, Paulina; Shirley McCullough, Prineville; Michael Juetten, Paulina; Dave Barnett, Bend; D. Max Hamblin, Crook County Health Department; Tara Thomas, Paulina; James L ######; Jodie Fleck and grandchildren, Post; Lawrence Weberg, Prineville; and Holly Wenzel.

The media was notified of the meeting.

Judge McCabe called the meeting to order and asked Sarah Bucholz to lead the Pledge of Allegiance.

## **Consent Agenda**

- 1. Approve Minutes of September 21, Land Use Hearing, LandWatch vs. Cox
- 2. Approve Intergovernmental Agreement with Jefferson County for GIS Services
- 3. Approve Order 2016-89, SAIF Dividend Fund
- **3A.**Approve Crook County's Consent to Crook County Parks and Recreation District's Proposed Improvements

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

## Motion

Commissioner Crawford moved to approve the Consent Agenda as presented. Commissioner Fahlgren seconded the motion. The vote was 3-0, motion carried.

## Recognition, Years of employee service

The Court recognized and honored five employees receiving their years of service recognition: Cam Teater, Road Department, 5 years; Eric Blaine, Legal Staff, 5 years; Martin Hollen, Jail, 10 years; James Savage, Sheriff's Office; and Laura Fladung, Treasurer, 15 years.

## Consider Order 2016-76, Notary Service

Mr. Wilson presented Order 2016-76, repealing Order 94-24 and revising Crook County's Notary Public Service Policies. Crook County Clerk Cheryl Seeley would like to charge for Notary service and prefers to keep the policy in her office to charge for the service. Notary service is required with a lot of the documents that she records, and the notary charge of \$5.00 is put into a reserve fund that allows the office to purchase needed equipment. The office does approximately 200 notaries per year and it take from 10 to 20 minutes for each notary.

Information was received from other offices that do not want to charge and that do provide the notary services as a service to the community. There are many individuals that are in need of the service but are low income or have the inability to pay for the service.

Following the discussion, Mr. Wilson said he will change the order language to state that Department Heads in the different offices are to make the decision regarding charging or not charging for the Notary service in their offices.

### Motion

Commissioner Crawford moved to direct staff to make the changes in the order and to authorize signature outside of Court. Commissioner Fahlgren seconded the motion. The vote was 3-0, motion carried.

## Thank you letter from OHSET, Oregon High School Equestrian Team

Crook County Fairgrounds Manager Casey Daly explained the agreed upon use of the indoor arena for the OHSET. There is no charge for the use of the arena but the OHSET does pay for the lights. Mr. Daly read the thank you letter from OHSET into the record thanking the Fair Board and the County Court for the use of the indoor arena for their practices.

## Consider agreement with CIS for Milliman Inc. review of GASB 45/75 valuations

Assistant County Counsel Eric Blaine presented the information regarding the contract with CIS (City County Insurance Services) for GASB 45/75 actuarial services. GASB is the Government Accounting Standards Board, which describes itself as "the independent, private sector organization based in Norwalk, Connecticut, that establishes account and financial reporting standards for U.S. state and local governments that follow Generally Accepted Accounting Principles (GAAP)." Its focus is on pensions and what are called "other postemployment benefits". Milliman is a Seattle-based actuarial firm, which would conduct valuations for certifications in conformance of the GASB a45/75 requirements as part of the County's required annual financial audit.

The cost for the first year is \$7,500 and the second year is \$8,000. Mr. Blaine and Treasurer Kathy Gray have both reviewed the document and feel it is adequate and can be signed. There is a 3 percent discount if contract is executed before November 30, 2016.

Further discussion was held regarding early termination, recommendation from CIS, and companies that provide arbitration services.

This is for a two year contract. One report will extend out to 2020.

### Motion

Commissioner Crawford moved to approve the contract agreement as presented. Commissioner Fahlgren seconded the motion. The vote was 3-0, motion carried.

## Public Hearing, Mass Gathering, Lazy Rocking Stirrup Country Music Festival, Tammy Van Vleet

Ann Beier, Assistant Planning Director, presented information on the mass gathering planned in the Paulina area, the Lazy Rocking Stirrup Country Music Festival. This is a three day mass and social gathering expecting 3000 people that will be camping overnight on the property. This is not a land use decision. The organizers are working to get the permit for the event to be held in July 2017. Information has been shared with the Health Department, Road Department, Sheriff's Office, Emergency Management and ODOT. There have been no major concerns received back from any of the departments. There is an expectation of probably 1000 cars, creating more traffic than usual. The local property owners have a different view on the event.

Information was provided on the hours of music, plans for the entertainment, liability, cash deposit of \$10,000, the bond amount, and requirement of OLCC for drinking and Environmental Health for water.

Discussion was held on the use of fireworks, the startup time on Thursday noon, the entertainment, food, and a carnival for kids and the production company. The plan is to make it a family friendly event.

Questions were ask about the use of ATV's and, since this is a 4<sup>th</sup> of July weekend, what about the people leaving the event and going onto other properties.

Event coordinator Tammy Van Vleet discussed the access to the property for the event, the lanes for traffic coordination and the safety for the public. She explained that the property is quite a distance from the main road and due to the arrangement of the property; it is easier to maintain the people.

## Opposition and support

Speaking in opposition of the event were several individuals from the surrounding properties and those that would be affected by traffic for the event.

Suzy Hermreck, 68305 SE Paulina Hwy, Paulina Oregon has adjacent ranches on both sides of the event venue, and she is concerned that this is a commercial event in an EFU1 zoned area. She discussed the moving of hay equipment on the roads during this time because this will be during the first cutting of hay. Ms. Hermreck discussed the high danger during fire season at that time and the sparks that could come from the ATV onto the surrounding properties. She pointed out that there is a Fairgrounds in Prineville built to hold these events.

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She presented concerns on signs, traffic, the mass gathering with amplified sound, and the narrow two lane road with no shoulders on the winding road. Ms. Hermreck said the property owners are stewards of the land and ranching is in a fight for their life. She asked to please allow Paulina to maintain their life style.

Bob Brittner, Paulina, presented a petition signed by 19 people of the area opposing the mass gathering. Secretary Colleen Ferguson read the title of the petition into the record: "I oppose the proposed mass gathering on June 29—July 2, 2017 at the John Giorgi ranch, Paulina, Oregon".

Jodie Fleck, Post, provided information on emergency operations and ambulance service. Ms. Fleck is very involved with the emergency and ambulance response. She is not opposed to the event except for the fireworks. She provided background on her concern with the fire possibility and advised that there is no way to prepare for a fire in the upper country where the event is proposed. Ms. Fleck said the medical need would be treated the same and 911 calls would be responded to just as the ambulance and emergency personnel respond to all emergency medical events. She did not see following protocol as an issue.

Sara Teskey, owner of a neighboring ranch to the proposed event property is in favor of the event with more planning and information. In Arizona, their farm hosted these events and it is not as foreign due to their history. She said she has no fear as long as the planning is done properly.

Gary Bedortha spoke. He said he lives quite a way up the road but he discussed the fact that the people leaving the event will be going across the county and would go to the other side of the bridge. They would require a traffic plan. He would want it handled correctly.

Cheryl Ingersoll spoke on behalf of herself and her husband Tyler Groo. They live east of the ranch hosting the event and are concerned about the lack of infrastructure, people and traffic coming back and forth on the holiday weekend and concerned about people staying in the area. She is also worried about fire. The fire volunteers are stretched thin, and they would like to be part of the plans if the County goes forward.

Lawrence Weberg, Prineville, but formerly from the Paulina area for most of his life, has driven the roads many times and it can be dangerous. He said this is not a place for a venue; there is a place in town that is all set up for everything. The RV's will be all over the place. He said it is just too many people, and he does not believe the code allows for an event like this in the center of EFU1 Land.

Ann Beier reminded the Court that this is a mass gathering process and is not a land use matter. Ms. Beier said the neighbor's concerns are very important. She understands the concern of the ATV track and the worry about sparks starting fires. Ms. Beier is willing to work with all the property owners.

Judge McCabe thanked everyone for coming in and sharing their concerns. He assured the property owners that he will be involved in the process and that the Court may travel out and takes a site visit.

Planning Director Bill Zelenka asked that the matter be tabled to a specific date with the final decision to be drafted based on the information received today. Mr. Wilson agreed with that suggestion, and suggested the final decision occur after staff's site visit. Mr. Wilson understands planning staff is recommending approval subject to applicant complying with all conditions of approval. , Staff will prepare a final order with all conditions of approval for the Court's consideration.

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Judge McCabe said he believes the Court needs those before making a decision. He is not prepared to hold a vote at this time.

The applicant agreed that everything heard today is valid and she wants to embrace the community. She asked that the permit be approved so they can move forward with the checklist of requirement, move forward with the plans. This is a great expense to them.

Discussion was held regarding moving forward with the permit, move forward with bench marks, the problem of the noise issues, and the list of details to be reviewed by appropriate state and local agencies.

Ms. Beier proposed a meeting in Paulina. The applicant said she is prepared for the cash deposit but not for the bond at this time. She is prepared for the noise issue and believes it would be less of a noise issue in Paulina than if in town. She spoke of events she has organized to be held in Honolulu and the amount of requirements involved there.

### Motion

Commissioner Fahlgren moved to go forward with the permitting process. Ms. Beier proposed a letter from the Court and preparing it before the next Court meeting on December 7. She will circulate the letter with the landowners, local and neighbors and work on a meeting in Paulina with property owners. Ms. Ferguson read the petition with the 19 signatures. Commissioner Crawford seconded the motion. The vote was 2-1, with Judge McCabe in opposition.

## Consider patrol vehicle purchase, Order 2016-93, interfund loan to Sheriff's Office

The Court considered Order 2016-93, an order prepared to purchase two new vehicles for the Sheriff's Office; one from the Sheriff's funds and one from the interfund loan. The two vehicles will be replacement law enforcement. The procurement process was discussed with two responses received to the RFP, one on time, one late and both unresponsive. The Sheriff's Office will purchase one vehicle outright along with the equipment and contract for someone to install the equipment. Order 2016-93 will be for the interfund loan. The Sheriff's Office has sufficient funds to pay the debt payments back to the contingency funds.

A brief discussion was held regarding the 10 million dollars in bonds for the new jail.

The loan of funds out of the contingency is being done this time, but the recommendation is not to make this a routine practice. Mr. Blaine recommends approval of Order 2016-93.

## Motion

Commissioner Fahlgren moved to approve Order 2016-93 and the interfund loan, and the contract with Wirework LLC to be signed outside of Court. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

# ODOT Fund Exchange/ ODOT Program request \$412, 856 for chip seals and other maintenance/ Bob O'Neal

County Roadmaster Bob O'Neal reported on the ODOT Program that provides funding that can be used for chip seal and maintenance striping. He spoke with ODOT and received the information that the County will be receiving \$412,856 that will go back into the transportation fund and can pay for chip seals next years.

The Court thanked Mr. O'Neal for his work is researching and applying for the funding. The recommendation was to accept the \$412,856 funds.

#### Motion

Commissioner Crawford moved to approve the fund exchange program, and the receipt of \$412,856.85 from ODOT. Commissioner Fahlgren seconded the motion. The vote was 3-0, motion carried.

Judge McCabe adjourned the Court for a five-minute break at this time and reconvened the Court back into open session following the break.

## **Court Final Decision, Angie Gilley, Personnel matter**

Judge McCabe opened the Court session and explained that Ms. Gilley asked for this matter to be addressed in Open Session. The Court is not required to take public testimony today, but has chosen to accept limited public testimony.

County HR Manager Teresa Herrman presented her memo that included information of her meeting with Legal and with the County's CIS Attorney. Ms. Herrmann presented three options to the Court regarding Ms. Gilley's resignation presented on November 2, 2016. Option #1: Accept the resignation she tendered and take no other action. Option #2: Do not accept the resignation and either require Ms. Gilley to sign a last chance agreement or a permanent written warning detailing her refusal to provide required outreach programs, or Option #3; accept the resignation she tendered with 3 month's severance pay, allowing 21 days to consider the offer..

HR's recommendation is to accept the resignation and offer the three month's severance pay.

There were several people that asked to speak today and also a letter from Mr. Shoeh to be read into the record.

Mr. Wilson presented information regarding the reason that this matter is in Open Session. Generally a personnel matter is in Executive Session but Ms. Gilley requested at the November 2, 2016 meeting to hold this in Open Session. This is a continuation of that discussion, and that is why it is open to the public.

Mr. Wilson explained the procedure for today's meeting. The first thing is for the Court to decide whether Ms. Gilley committed an act of insubordination when she announced that she on behalf of the County veterans service office would not be offering outreach services to the Band of Brothers.

Eric Blaine read Mr. Shoeh's letter into the record regarding an alleged hostile work environment created by Ms. Gilley towards Kimberly Phillip. (Letter is included in packet).

John Pierson said he moved to Rogue River recently. He is an Air Force Veteran, member of the Band of Brothers and one of two that began the honor guard. He is the President and founder of the Military Honors by the Pipes. He is familiar with many VSO. He said that Kim Phillip is his VSO and Crook County is blessed to have her representing the veterans. In 2010, Kim dug into his exposure to Agent Orange stateside, and it took four years but he finally received the VA's approval to receive benefits. He is here today for Kimberly.

Dave Sumner spoke as a 50 year resident in Prineville, member of Band of Brothers and a Marine serving in the Marine Corp. He wrote a letter that he read. (Letter is included in the packet). He felt he had not received the help he needed from Angie, the Crook County VSO, and wound up filing a claim in Portland and having to schedule testing to be done in Milwaukee. He had spoken with Ms. Gilley and she told him to leave her office.

Octava Best-Beck said she was a 21 year veteran. She said Ms. Gilley maybe was not the best but not the worst. She talked about being in a restaurant three weeks prior and several gentlemen and one lady were talking about what to do about our Veterans Rep. Ms. Best-Beck said you cannot represent Veterans if you are not a Veteran. People don't make decisions on people's lives when joking and laughing. She said she did not trust people, and this did not happen in a day and won't bet taken care of in a day.

Brett Nelson said he believes this should have been addressed years ago. Ms. Gilley has put in her tenure, and Crook County has a VSO that is talked about all over the state.

Dusty Kitchener said he is a disabled Vet that has known Angie for several years. He said he would have a hard time going to someone that is not a Veteran. He believes in what Angie does and is glad she is a Veteran and VSO.

Roger DeVore said he is a disabled vet. He said that Angie helped him get his services. The VA System is horrible. People should get together.

Mickey Dodd, Mitchell said he left Wheeler County VSO because of no cooperation. Angie helped to get his disability payments raised and hearing tests done. He said there was nothing but good to come from him.

Lyle Byler said he is a Navy Vet and does not believe Ms. Gilley. He watches Kim circulate at the meeting. He recommended accepting Ms. Gilley's resignation and send her out the door.

Dennis La Sauer said he is a 21 year veteran, Army and Army National Guard. He said he does not know Angie. Kim had worked with him and got him set up with the Veterans. He said about Octava's comment, we have presidents that have never been in the service. He spoke of no representatives in the valley but he went to see Kim and everything was taken care of in three months. He said he could not speak about Angie.

Joe Wiese said he was not going to say anything but he has been well represented by both--but Kim did not resign. Angie resigned. If that is her premonition for her future, so be it.

There being no further comments, the Public Hearing Portion of the meeting was closed.

Ms. Gilley said she was sorry it came to this point. She had tried going through the chain of command but it did not happen. She said at Band of Brothers, she stood up for integrity of Brothers and Sisters. She did not know that honor, integrity and morals had gone out the window. Ms. Gilley said she puts her heart and soul into the VSO Office. There is a supervisor and employee relationship. When Kim was confronted, it is always someone else's fault. Ms. Gilley said she feels like she is being retaliated against because she took a stand. She said she felt she could not say anything that might upset Kimberly. The work environment created health issues. Ms. Gilley started counseling to deal with the stress and PTSD. She said, "You are letting an honorable Marine go."

Ms. Gilley said she has told the police and Sheriff that she will be available to work with people. She spoke of going to a doctor appointment and running into clients. One was her client, and one was Kim's. They asked what they were to do now. They are being left to hang. Ms. Gilley said the Band of Brothers is a wonderful organization. The issue was that the Board lied to the members as to why the Vice President stepped down

From the back of the room came shouts of "Irrelevant" from the audience.

She said the Board did not think enough of the members to tell them the truth so she did. She said she is going to withdraw her resignation, and she will be consulting her lawyer.

Ms. Gilley read from her last chance agreement and said she did not do this. Band of Brothers ran their own check and they knew he was not who he said he was. They knew he was not a Navy Seal. (This is referring to the incident at Band of Brothers when Ms. Gilley said the County would not be offering outreach services to the Band of Brothers).

At this time there were outbursts from the back of the meeting room.

Ms. Gilley said she has served this community, and she withdraws her resignation.

Judge McCabe asked Ms. Gilley if she was willing to take on any more cases and asked how many cases she works on now. She explained what her job is. At this point Alice Austin came forward to where Ms. Gilley was sitting and wrote something on Ms. Gilley's paperwork.

Ms. Gilley said she was supposed to begin or end an outreach event. Judge McCabe and Ms. Gilley discussed the outreach projects, and that previously she had come in to visit with him and report what she was doing for outreach. She talked about outreach and what she sees as an outreach.

Judge McCabe told Mr. Wilson that Ms. Gilley wanted to withdraw her resignation but cannot work under these conditions. Mr. Wilson asked "Which is it?" Ms. Gilley said she would not work under these conditions. Ms. Gilley said she will not return as long as Kimberly Phillip is working in the VSO.

Mr. Wilson advised Judge McCabe that this would be the time to close the meeting to deliberate and make a decision. Judge McCabe closed this portion of the meeting.

Mr. Wilson recommended the Court proceed with a decision, making a finding that Ms. Gilley failed to perform the essential functions of her job and finding her refusal to return to work an act of insubordination. The Court discussed with Ms. Herrman the recommendation of option #3.

Commissioner Crawford discussed Ms.Gilley's performance reviews over the years, and there were none of the negative matters or issues documented. He said he believes the Court needs to give a warning and continue on. If the Court moves forward and is too aggressive, we wind up in a lawsuit. He discussed expectations and going through the process. He said the Court cannot just throw caution to the wind with how we deal with this. Ms. Gilley said she cannot work with Kimberly as long as she works there.

Judge McCabe said the stolen valor issue is a Band of Brothers matter.

John Pierson said this is an issue of stolen valor. This is an organization of Veterans, not of Seals. If you are not a Seal, you cannot call out a Seal. He is a veteran. Only a Seal can go after a poser, and that is another Seal. Mr. Pierson's view is that Ms. Gilley is way off base with the Band of Brothers.

Commissioner Crawford said this matter has no bearing on employment at the County. He said he understands his passion but the Court needs to deal with the employment and job performance issues.

Commissioner Fahlgren talked about the insubordination, and the decision to announce that the County would not provide the outreach with the Band of Brothers. He said the County expects Ms. Gilley to have outreach with this organization. It is the largest Veterans group in Crook County to reach out to. No different than a teacher. There are always new people. That is an outreach. Commissioner Fahlgren said he is on the Veterans Committee, and he has overseen the committee. The Committee brought the issues to HR. We have gone back, gone to legal and we have worked it through. Today, this has to do with insubordination. To Ms. Gilley he said, we are proud of what you have done.

Mr. Wilson recommended the findings of insubordination based on Ms. Gilley's unwillingness to return to work.

## Motion

Commissioner Fahlgren moved to approve the finding as stated by Legal Counsel. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

Mr. Wilson advised the Court that Ms. Gilley has given a statement and has said no to the last chance agreement. The two options are to accept Ms. Gilley's resignation or reject her resignation and impose some sort of discipline for being insubordinate. Ms. Gilley has not expressed any interest in resignation with severance. He said options include an oral reprimand, written reprimand or resignation.

Commissioner Fahlgren said that based on her statements of today Ms. Gilley is not willing to go back to work in the office.

Ms. Gilley stated that it is a hostile work environment.

Mr. Wilson advised the Court that they could order her to go back to work

Discussion was held with Ms. Gilley regarding going back to work.

Ms. Gilley said she needed to take a break at this time, and she turned to walk away. Mr. Wilson advised Ms. Gilley that taking a break at this time was not up to her. It was up to the Court.

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Ms. Gilley stated she would not go back to work at the VSO as long as there is a hostile work environment due to the presence of employee Kim Philipp.

Mr. Wilson recommended a motion at this time.

#### Motion

Judge McCabe moved to terminate Ms. Gilley's employment. Commissioner Fahlgren seconded the motion. The vote was 2-1, with Commissioner Crawford in opposition.

Judge McCabe asked Ms. Herrmann to prepare the paperwork needed for Ms. Gilley.

Intergovernmental agreement between the City of Prineville, Crook, and Ochoco Irrigation District This item was removed to bring back to a meeting that would have Eric Klann of the City of Prineville in attendance.

At this time, Judge McCabe adjourned the Court out of open session and into Executive Session under ORS 192.660(2)(h) for the purpose of consulting 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**

Judge McCabe convened the Court into Executive Session under ORS 192.660(2)(h) for the purpose of consulting with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. Following the discussion with Legal Counsels, Judge McCabe adjourned the Court out of Executive Session under ORS 192.660(2)(h) for the purpose of consulting with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed and back into Open Session.

## **Open Session**

Judge McCabe convened the Court back into Open Session after adjourning out of Executive Session under ORS 192.660(2)(h) for the purpose of consulting with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed and invited any members of the public back into the meeting room.

There were no directions or decisions to be made from the discussion in the Executive Session. There were no further items before the Court today that required action. Judge McCabe adjourned the County Court Session for today. The next County Court meeting will be held December 7, 2016.

Respectfully submitted,

## Colleen Ferguson

Colleen Ferguson Crook County Court Secretary.

An audio disc recording of this meeting is available from the Crook County Administration Office.