

Approved October 19, 2016

**BE IT REMEMBERED THAT** the Crook County Court met in a Special Session on August 30, 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.

Members of the public signing the attendance log were: LaQuita Stec, Prineville; Pete Sharp, Prineville; Rob Tandy, Prineville; Tom Case, Prineville; Brett Nelson, Prineville; Jerry and Darlene Harpster, Prineville; Gil Riddell, Salem, Oregon; Barbara Vieu, Prineville; Jodie Fleck, Post; John Novak, Prineville; Teresa Rodriguez, Prineville; Jerry Cordova, Prineville; Paul Cuddy, Prineville; Joe Hudspeth, Prineville; John Chandler, Prineville; Oaf Aalop, Prineville; George Heinz, Prineville; Melina Kestler, Prineville; George Ponte, Prineville; Susanne Walters-Moore, Prineville; Melanie Marlow, Prineville; Shelley Hudspeth, Prineville; Tyson Riggs, Terrebonne; Teresa Ervin, Prineville; Bridget Moran, Bend; Jason Carr, Prineville; Deputy Seaney, CCSO; Phil Paterno, Powell Butte; Karen Hoyser, Powell Butte; Denise Steffenhagen, Prineville; Charles Delmo, Prineville; Cynthia Harper, Prineville; Liz Strand, Prineville; Emily Olson, Powell Butte; Bob Hoyser, Powell Butte; John Gautney, County Sheriff; Cliff Kiser, Prineville; Gayle Casselman, Prineville; Darlene Fishel, Prineville; Michelle McSwain, Prineville; Betty Roppe, Prineville; Andrew Seisky, Associated Press; Stacey Forson, Ochoco National Forest; Barbara Fontaine, Powell Butte; Lucy Woodward, Prineville; Craig Woodward, Prineville; Audra Oliver, Prineville; Greg Jackle, ODFW, Prineville; Patricia A Beverly, Prineville; Tim Deboodt, Extension; Marylou Bernard, Prineville; Anne Hoffman, Prineville; Terry Holtzapple, Prineville; Kurt Jones, Prineville; Kim Kambak, Prineville; Alzade Magdelene, Prineville.

The media was provided with notice of the meeting.

Below is a copy of the public notice for the Special meeting:

**Public Notice:** Special Crook County Court meeting, Tuesday, August 30, 2016 at 9 a.m. To 12 p.m. (Noon), County meeting room, 320 NE Court Street, Prineville, Oregon. The purpose of this meeting is to conduct additional public meetings with the goal of discussing a proposed Natural Resource plan that includes conversations with governmental agencies, the private sector, advocacy groups, community organizations And the public. The meeting is also intended to comply with the commitments set forth in the MOA between BLM, USFS, and AOC. If necessary, the time, date and place of additional meetings will be decided at that time. *For information please contact the County Administration office at 447-6555. Assistance to handicapped individuals is provided with advance notice.*

Judge McCabe opened the meeting and provided instruction regarding the procedure for today's meeting. He asked Michelle McSwain to lead the Pledge of Allegiance.

Mr. Wilson explained that today's meeting is continuation of the consideration of the Court for adoption of the Natural Resources Plan and explained that all questions will be directed to the

County Court. He provided the staff report on the Natural Resources Plan presented to the County Court by the Crook County Natural Resources PAC and reviewed the letter written in response to the request to the general public for comment, and the 2014 Memorandum of Agreement (MOA) between Association of Oregon Counties (AOC) on behalf of the Crook County, United States Forest Service (USFS) and Bureau of Land Management (BLM). Mr. Wilson also described the contents of a letter from Crook County to AOC, BLM, US Forest Services, special interest groups and the general public, inviting them to today's meeting to discuss the Natural Resources Plan. The letter inviting various agencies and the public. This proposed letter was voted on at a prior County Court meeting resulting in a 2-1 vote.

Mr. Wilson outlined the procedure for the meeting that would include:

- A brief statement from Association of Oregon Counties (AOC) on the MOA;
- Introductions of the representatives from the Federal and State Agencies;
- A letter from the PAC, questions from the public, and procedure for the questions.

In addition to public testimony, Mr. Wilson identified a list of correspondence received regarding today's meeting:

- August 26, 2016, a letter to the Crook County Court from Michael Blumm, Professor of Law at Lewis and Clark;
- August 22, 2016, email from Mike Gerdis, Crook County resident to County Court members;
- Memo from Ron Yockim to Grant County Court from dated October 15, 2015
- Email comments from Barbara Fontaine to Crook, County Court
- August 26, 2016, correspondence from Anna Sieber, AOC;
- August 30, 2016 letter from Craig Woodward to Judge McCabe and cc'd to Commissioners;
- August 26, 2016 letter from Phil Paterno, Crook County resident
- July 16, 2016 letter from Barbara Frananno

Mr. Wilson read into the record the letter from Michael Blumm that was based on his over 30 years of teaching.

Gil Riddell, Policy Director of AOC, representing all 36 Oregon counties discussed the MOA. He explained that the purpose of the MOA is that AOC encourages early and often communication and AOC, on behalf of all 36 counties individually, approved this MOA to establish a means of communication between counties and agencies. The County designates a contact for the State and Federal Agencies and BLM and the USFS designate a representative to that County. He provided an example and described the timing of the notice and the substance to the parties involved. The goal is to build a long-term relationship between the Counties, the State, BLM and the USFS. This MOA was reviewed by the Department of Justice, adopted in 2005 and readopted in 2014.

Stacy Forson, USFS Forest Supervisor for the Ochoco National Forest Service and the Crooked River Grassland thanked the Court for the invitation to speak today. She said she has a positive relationship with the Crook County Court and expects that positive relationship to remain. She

provided information on the mission of the Forest Service and her oversight of the Grasslands in Jefferson County and the Forests in Grant and Crook County. Ms. Forson had a written presentation that she read that covered coordination, providing assistance, local connections and special expertise on concerns. She discussed the NEPA process and OFRC on which Mayor Betty Roppe and Commissioner Ken Fahlgren act as co-conveners. She provided information on the Wolf and the Gap projects, pre- and post-collaborative, recent hearings, up front pre-collaboration and the 18,000 acres 75 million board feet of timber to be harvested.

Ms. Forson provided a copy of the letter for the record. The Court previously provided Ms. Forson with a copy of the Natural Resource Plan.

The Court thanked Ms. Forson for attending.

Carol Bonkosky, District Manager of the BLM for the Crook, Deschutes and John Day Water Basins, provided a copy of her presentation. She said Crook County is her home, but only 27 percent of the total management area is in Crook County. She discussed the cooperating roles, cooperating agencies and the work of Crook County as a cooperating agency in the Sage Grouse project. She said she is concerned about the adoption of the Natural Resource plan. There are policy statements which take an adversarial position and could cause unnecessary and counterproductive conflict. She discussed the BLM being ready to improve the Resource Advisory Council.

Commissioner Fahlgren asked about direct conflict issues. Commissioner Crawford wondered if she had spoken with BLM in Baker County regarding the Natural Resources Plan in place in Baker County, and if so, had they experienced conflicts. They discussed the Natural Resource Plan that was enacted in Baker County. Commissioner Crawford asked what are the examples of conflicts and what issues has Don Gonzales, BLM supervisor in Baker County, had with the plan. Ms. Bonkosky said she cannot speak for Don Gonzales, but regarding Crook County, she feels that BLM has a great working relationship with this Court.

Bridgett Moran, Field Supervisor, United States Fish and Wildlife (USF&W), explained that USF&W is not a land management agency in this area. She spoke of her interaction with the County and other agencies, and she is a strong believer in collaboration. She presented information regarding the working together of the private landowners, the counties, other agencies and ODF&W that concluded in the recent decision not to list the Sage Grouse on the endangered species. Because this was the result on a voluntary conservation plan, there is no need to impose a regulatory plan. Ms. Moran said USF&W finds that through collaboration, there are better results, and this comes from working with people through the collaborative efforts. She thanked the Court for the copy of the Natural Resources Plan, said it was a bit of surprise and would add another layer of regulatory bureaucracy.

Judge McCabe and Ms. Moran discussed the recent Spotted Frog issue and the current, active litigation. She said that the USF&W was not a party in this. She explained the situation of the environmental advocates that asked to not have water stored and released because they believe it would not have been beneficial to the frog. It would have resulted in disallowing other users to

use the water. She spoke of the Sage Grouse partnerships that lead to the decision to not list the Sage grouse and said that Oregon led the way.

Tyson Riggs, Oregon Department of Forestry (ODF) spoke on forest restoration and collaboration as a successful way to move forward. He said collaboration is not always easy, but there is a need for active management instead of blocking the way. Litigation, meanwhile, was great at blocking action but a poor avenue for moving things forward. He spoke on the GAP and the Wolf projects that were both very successful. He said collaboratives do not always agree, but they do come to a common ground. He described some of the restoration projects accomplished through the work of a collaborative. Mr. Riggs said the decision making will always be at the federal level at this time. Sometimes it seems slow, but it is better than just digging in.

Bob Hooton, Deschutes County Watershed Manager, discussed the local counties. He said the Watershed Council is not a local land management. They are in the advisory role and make recommendations regarding hunting and angling, and they create some successful projects such as local energy projects and habitat work with the local ranchers. He said he has enjoyed working with Crook County.

Commissioner Fahlgren and Mr. Hooton discussed any problems with the wildlife portion and wildlife management being much more involved. Wildlife management, said Mr. Hooton, was far more complicated and involved than is portrayed in the draft plan. Mr. Hooton notes that this agency was not invited to speak or comment during the drafting process. Discussion was held regarding some areas that have been set aside per request and some areas that are problematic. He said if the County adopted the plan as currently written, it is challenging.

Discussion was held on the predator management and management for all wildlife and balance to the wildlife, the rancher and the public. Directing the removing of every cougar, bear, and wolf is unwise and will likely lead to litigation.

*Judge McCabe adjourned the meeting into a break at 10:00 to reconvene at 10:10 a.m.*

Judge McCabe reconvened the Court back into Open Session.

Vernita Ediger, Central Oregon Intergovernmental Council (COIC) Natural Resources and Environment Coordinator, provided information on her position with COIC, her background living in John Day, her life being very caring about the land, and her work with the Forest Collaborative. She has also prepared the Wild Horse Management plan update. Past efforts, especially litigation, have led to a stoppage of resource management. The collaborative combines science plus local values.

Ms. Ediger spoke on matters that have stalled, working through the diversities, matters that people talk about on the ground and working to come to the best possible outcomes in partnership with the land manager, (USFS), emerging instead of litigation. The County and the City have a voice at this table and any citizen is welcome to sit at the table. Is it easy, no, but it is challenging. He discussed the pilot project of harvesting timber greater than 21 inches, and the

possibility of that program expanding that across the forests. He invited the public to the OFRC meeting at the library from 1:00 to 4:00 every 4<sup>th</sup> Tuesday.

Ms. Ediger provided information on how to reach her through the COIC web page or after today's meeting.

Teresa Rodriguez provided a letter from Bill Harvey, Baker County Commissioner. She read the letter into the record.

Judge McCabe thanked all the speakers for attending.

For the final phase of the process, Judge McCabe gave the public that wished to comment three minutes each to do so. Eric Blaine was the timekeeper.

George Heinz spoke in favor of the plan. He is Wildfire Committee Chair and currently a member of the OFRC. He spoke on the history of creating policy through litigation. He said for a solid foundation, there is a need for coordination, but the need is for collaboration to reach coordination. He described his experience of accessing the open door policy for both Judge McCabe and the Commissioners. He has met and spent time with all three. He believes the Natural Resource Plan is a great tool. Possibly there needs to be some changes in the language. It is time to sit down and talk, holding an open discussion.

LaQuita Stec, in opposition, thanked the Court and expressed her thoughts on going through the process prior to approval and on Ordinance 259, amending Title 18 of the County Code. She read a letter into the record regarding the Natural Resources Plan, the Committee and the Patriots. She was unable to read the entire letter into the record due to the time constraint of three minutes. The letter was submitted for the record.

Tom Case, Chairman of the Central Oregon Patriots spoke in favor of the plan and said this is not just about the Forest Service. He believes the Forest Service does a great job but sometimes have their hands tied. He discussed the recent project and work of clearing around Walton Lake. He said there are a lot of times the Forest Service is between a rock and a hard spot.

A late letter from Kim Kambak was presented to the Court.

Denise Steffenhagen thanked the Court for holding the forum and working together. She discussed the agencies working together with the resource advisory boards and encouraged the people that had worked so hard on the plan. She said it does not make any sense to adopt anything that is not legal to enforce, referring to the possibility of the plan being adopted as a policy. She spoke of the article written by Amanda Peachier, an article done on Bill Harvey of Baker County and quotes in the article. Ms. Steffenhagen said she appreciates the land and wants her grandchildren to have the opportunity to enjoy the forests and lands.

Jodie Fleck said she is a proponent of the plan and presented a letter for the Court. She read one paragraph from the letter and spoke about lawsuits, coordination, federal statutes, collaboration

and an example of a Leatherman tool and how it relates to the plan with all the various tools it incorporates.

Patricia Beverly spoke on words such as cooperation and collaboration and coordination that need to be defined in the action they stand for. She spoke about work in reforestation. Ms. Beverly also spoken on the elected Court officials and wanting them to follow the law, follow the AOC memorandum and figure out what is legal, appropriate and effective.

Pete Sharp spoke in favor the plan. He stands for god and the constitution. He said George Heinz, Tom Case and Jodie Fleck had covered the plan. He said coordination is an added tool to collaboration and the plan is nothing but positive tools that we need to add to our County.

Andrea Oliver spoke in opposition to approving the Natural Resource Plan. She said she was happy to be in Crook County and that citizens need to use the land carefully to protect the land. She respects the authors of the plan for stepping forward but she disagrees with it.

Darlene Harpster spoke in favor of the plan. She said she loves her freedom, and if we do not speak up for what we want, we will get more regulation instead. The government agencies want more regulation. She does not. She said she feels she was born free but it is all coming down around her ears. Ms. Harpster said that the PAC wants a voice, and they do not want total regulations.

Barbara Fontaine spoke against the approval of the plan. She thanked the Court for holding today's meeting. She is pleased to be in a room with interested people. She said she believes the Natural Resource Plan has a lot of problems and she explained her thoughts regarding the problems.

Judge McCabe, at this time, ended the presentations from the public.

Mr. Wilson presented closing remarks and provided several options that the Court could consider. They could adopt the plan as written with the plan that included the Ochoco Irrigation revision; reject the plan relying on the existing cooperation plan, or continue the matter for additional input. The Court could treat the plan as a land use document and return the plan to the Planning Commission to review the draft plan as a Comprehensive Plan amendment and compare it to the County's ordinances, or remove the Plan that has not gone through the land use process.

Planning Director Bill Zelenka agreed. He discussed the confusion of federal legislation meeting with local agencies. If this is to be utilized as a land use it must go through the land use plan process. He said it had been reviewed as a policy and it speaks about coordinating as a land use. He suggested going further and explaining an order versus an ordinance, and the effects of each. He discussed the confusion and misinterpretation.

Commissioner Crawford asked if it would be better to call it a Natural Resource Policy instead of a plan, making sure it is a policy statement and not a plan.

Judge McCabe said the plan does have to go through the process and a policy serves no additional purpose. He believes this plan is wrought with legal problems and both the letter from Mr. Bloom and the letter from Mr. Yockim to Grant County said the same thing. He said if approved, and he did not plan to approve it, the plan really has no merit.

Commissioner Crawford said there has clearly been a lot of input from across the County. He suggested getting the plan in place and then working on coordination.

Judge McCabe said if it is a plan, it has to go through the land use process. If not, it would be violating state statutes. It has to go through land use planning process.

The Court discussed the plan not changing any laws, if it remains the plan as is and is accepted as a policy, it will not do what the Natural Resources PAC wants it to do , and if it is to have any County Court weight behind it, it has to go through the planning process.

Commissioner Fahlgren said this has all been reviewed today. He believes he cannot adopt it today, and he sees no way other than going through the land use process.

Mr. Zelenka provided information on the planning process including hearings, notifications, meetings, and fees.

Judge McCabe said he is not in favor that it is a policy. The PAC wants a Natural Resources Plan without proceeding through public land use hearings. It cannot be both ways.

Shelly Hudspeth said the PAC is consulting with Elizabeth Howard of Schwabe, Williamson and Wyatt law firm to help clarify what is getting in their way. Jodie Fleck said that Zack Hostetter Law Group also looked at the plan.

Mr. Wilson's recommendation is to get a consensus and not adopt today but move it down the road as a land use. Judge McCabe said that is the only way he will go along with the plan.

Mr. Wilson discussed the options to run the plan through the Planning Commission process as an application for the Comprehensive Plan amendment. Mr. Zelenka said if the plan is going to the Planning Commission and if the PAC already has an attorney reviewing the document, it is best to wait and to bring the cleanest document to move forward. Any changes should be completed before the plan is submitted as part of an application.

Judge McCabe talked about the constraints, some liability and that his hope is that the attorney can ferret this out. Ms. Hudspeth said it would only take a few weeks.

Mr. Wilson said the staff has put many hours in on this matter as has the Court. If this goes before the Planning Commission, he recommends it goes through exactly as any other application. Mr. Zelenka provided a rough estimate of the costs involved, \$5,000.

## **Motion**

Commissioner Fahlgren moved to reject the plan in its entirety and that the Court recommend that the Crook County Political Action Committee, if it interested in pursuing the matter, file an appropriate application with Crook County Planning Department for a Comprehensive Plan Amendment in accordance with all the standard rules, regulations and fees for a Comprehensive Plan Amendment application. Judge McCabe seconded the motion. The vote was 2-1, Commissioner Crawford voting nay.

Judge McCabe adjourned the meeting at 11:30 a.m.

Respectfully submitted,

***Colleen Ferguson***

Colleen Ferguson

Crook County Court Secretary