

**BE IT REMEMBERED THAT** the Crook County Court held a Regular Session on October 7, 2015 beginning 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/ Executive Assistant Colleen Ferguson.

Members of the public signing the attendance log were: Karen Mikulski, Prineville; Jerry and Darlene Harpster, Prineville; Doris Sitzman, Prineville; Justin Gottlieb, Powell Butte; Michael W. Peterkin, Bend; Tim Marshall, Tangent, Oregon; Amber Hudspeth, Bend; Steve Mote, Tangent; Bonnie Brackman, Prineville; Donna Kriege, Prineville; Craig Woodward, Prineville; Chris Boar, Bend; Tom Jay, Prineville; Keith Brown, Prineville; Gordon Aggers, Prineville; Crook County IT Director Steve Dougill; Crook County Planning Commissioner John Sundell; Russ Rhoden, Ochoco Irrigation District, Prineville; Muriel DeLaVergne, Director Crook County Health Department; Brian Martinez, Astoria; Kris Williams, Crook County Health Department; Bill Mintiens, Jakie Spring Media and Camille Wood, Crook County Library Director.

The media received Public Notice of the meeting.

Judge McCabe called the meeting to order and asked Sheriff's Deputy Jacob Childers to lead in the Pledge of Allegiance.

### **Consent Agenda**

1. Approve minutes of June 5, 2015, August 19, 2015, August 26, 2015
2. Approve Order 2015-51, Disposal of Unclaimed Property
3. Approve Order 2015-52, In the matter of increased appropriations, Babies First-- Preparedness,-- Health Promotion
4. Approve Order 2015-53, In the matter of increased appropriations, Veterans Fund 325
5. Approve Order 2015-54, Community Corrections
6. Approve Order 2015-57, Appointment of Bev Viner to Prineville Lake Acres Unit #1 Special Road District Board of Directors
7. Approve OMD Emergency Management Performance Grant 15-507
8. Approve COCC Clinical Affiliation Agreement
9. Approve Agreement between COCC and Crook County re: Management Operations
10. Approve Dept. of Education IGA # 9744 (aka "CROS 1315"), Amendment # 5.
11. Approve Letter of Support, partner with Crook County High School Culinary Arts/Hospitality/ Tourism program
12. Approve KIDS Center, Commercial Lease Agreement-Amendment 1
13. Approve RV Sewer Upgrade--Construction Contract, Change Order# 1 & Change Order # 2
14. Approve Auditing Engagement letters, Pauly Rogers & Co. P.C./ Crook County/ Crook County Agricultural Extension Service District

### **ADDITION 14A. Approve IGA # 149458, medical assistance program grant with OHA**

The Court reviewed the Consent Agenda removing the minutes of August 26, 2015 for further review.

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### **Motion**

Commissioner Fahlgren moved to approve the Consent Agenda as presented removing the minutes of August 26, 2015. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

### **Swearing in, New Crook County Deputy Sheriff Jacob Childers**

Sheriff Jim Hensley and Sheriff's Deputy Jacob (Jake) Childers came forward for the public swearing in of the newest Crook County Deputy Sheriff. Sheriff Hensley introduced Deputy Sheriff Childers. Deputy Childers came to Crook County after 11 years with Klamath Fall and 11 years with Bellevue Washington police departments. He has a wealth of experience and knowledge and has served as a field training officer. Sheriff Hensley said Deputy Childers had the highest scoring interview in the last 29 years of Sheriff's Office interviews. Deputy Childers introduced his family.

Sheriff Hensley presented the Sheriff Department Challenge Coin and explained the history of the Coin and the purpose of the Coin. On the Coin is written: honor, service and justice. Above those words is written Integrity. Sheriff Hensley stressed that the Sheriff's Department staff serves with Honor, Service and Justice, but above all with Integrity. The coin is issued to new members of the Sheriff's Office and if the deputy leaves in good standing, he is given the coin. If not, the coin must be returned.

Deputy Sheriff Jacob Childers took his oath of Office, signed his paperwork, and the Court welcomed him to Crook County and the Crook County Sheriff's Office.

### **Read into the record and approve Order 2015-55, appointment of BOPTA Pool #1 and #2**

Judge McCabe read into the record Order 2015-55, the BOPTA (Board of Property Tax Appeals) members appointed in two separate pools of volunteers that have received training for this purpose and terms: Pool #1—Nancy Knoche and Ron Krebs; Pool #2, Mary Jo Johnson, Ron Krebs and Dorless Reid. The term of office begins October 15, 2015 and ends June 30, 2016.

### **Motion**

Commissioner Crawford moved to approve Order 2015-55 as presented. Commissioner Fahlgren seconded the motion. The vote was 3-0, motion carried.

### **Consider approval and signature of Black Bear Subdivision Phase 2**

County Planning Director Bill Zelenka explained the requirements of the County Court signatures on the Black Bear Phase 2 subdivision plat.

### **Motion**

Commissioner Fahlgren moved to approve the Court signing Phase 2 of the Black Bear subdivision plat. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

### **Consider approval of IT policies for adoption**

County IT Director Steve Dougill presented IT policy changes for approval of the Court. The policy review committee worked with Acctech consulting group on the changes and language of the policy. Mr. Dougill has provided information to Department Heads and has also presented two times at the County

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Work Sessions. The policy works with acceptable uses, expected uses and personal uses at the County. When the policy is approved, Mr. Dougill will initiate training of all employees. The employees will sign off that they have training and that paperwork will be included in personnel files. Mr. Dougill said the Department Heads wanted limited access during non-working hours as long as the employees follow the policy. Also staff is to use the system for county emails but not for personal email. The change will have to be adopted as part of the employee policy handbook.

Mr. Wilson recommended bringing all the policies and changes to be adopted back with an Order to adopt as policy changes to the personnel manual. His recommendation is to bring back at the October 21, 2015 meeting if all documents are prepared and ready to be reviewed for approval and adoption by the Court.

**Public Hearing, 2<sup>nd</sup> Reading, Ordinance 280, An Ordinance amending multiple chapters of Title 18 and Chapter 17.40 of the Crook County Code, and declaring an emergency: second reading, public hearing, vote**

Planning Director Bill Zelenka presented the staff report on the changes and purpose of Ordinance 280, amending multiple chapters of Title 18 and Chapter 17.40 of the Crook County Code and declaring an emergency. If approved today, the changes will take effect in 30 days, November 7, 2015.

**Motion**

Commissioner Crawford moved to read Ordinance 280 by Title only. Commissioner Fahlgren seconded the motion. Judge McCabe read Ordinance 280 by title only. The vote was 3-0, motion carried.

**Public Hearing**

Judge McCabe opened the public hearing. There being no comments received the public hearing was closed. Bill Zelenka explained there was a typographical error on the first page, 2<sup>nd</sup> paragraph that will be changed on the approved Ordinance if approved.

**Motion**

Commissioner Fahlgren moved to approve Ordinance 280. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

**Because the meeting was running ahead of time on the timed public hearing agenda items, the Court chose to discuss three of the items set for a later time that were not noticed as a public hearings.**

**Consider offer on County owned foreclosed property 129 NW 4<sup>th</sup> Street**

Counsel Jeff Wilson presented an offer to purchase County owned foreclosed property located at 129 NW 4<sup>th</sup> Street, Prineville. County Realtor of Record Mike Warren has discussed with the Assessor the current assessment and probable reassessment of the property. The Court discussed the offer of \$25,000, the expenses incurred by the County in order to have the property put into saleable condition and the amount to counteroffer. Judge McCabe suggested countering at \$75,000.

## **Motion**

Commissioner Fahlgren moved to counter the offer at \$75,000. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

## **Award bid for Road Department office expansion work**

County Roadmaster Bob O'Neal presented the bid for building an expansion to the Road Department Office that will serve as a file storage area. He has been working with County Maintenance Director Greg Hinshaw regarding the expansion, plans and permits. Requests for quotes went to four contractors. Bar H Construction, Marshal Bex, South Fork Excavation, and JPH Construction. Two contractors were unresponsive.

Two bids received from Bar H Construction at \$23,500 and South Fork Excavation at \$26,168.

Mr. O'Neal recommended that the Court accept the quote from Bar H Construction in the amount of \$23,500. The funds are included in this year's budget and the Road Department has not been expanded in many, many years. This would also make the meeting room space larger. Discussion was held regarding the contractors being very busy this year. Mr. Wilson recommended that the Court accept Mr. O'Neal's recommendation and accept the bid from Bar H Construction.

## **Motion**

Commissioner Fahlgren moved to accept the bid for building expansion of the Road Department Office from Bar H Construction for \$23,000. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

## **Hackelman Pit, Crook County, 4-R Equipment LLC, change order. Increasing total tons of rock from 20,000 to 25, 458 and total price from \$117,800 to \$150,000.**

Mr. Wilson asked the Court to amend the construction contract with 4R Equipment. The contract was for the crushing of 20,000 tons of rock. Crushing of \$117,800 is completed. The Road Department has a need for approximately 5500 tons of  $\frac{3}{4}$  minus rock. He explained the procurement process and quote with the total not to exceed the \$150,000 maximum. Mr. Wilson recommended approval for the purchase. Mr. O'Neal said the cost of the rock is within the Road Department's budget.

## **Motion**

Commissioner Fahlgren moved to approve Change Order #1 to the contract with 4R Equipment for the crushing of an additional 5,458 tons of  $\frac{3}{4}$  minus Rock. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

Mr. O'Neal provided an update on the paving of Juniper Canyon road to be completed today and the stripping of another portion of road to be completed the end of the week.

The Court thanked Mr. O'Neal for the great job he is doing on the roads.

**Public Hearing, Ordinance 281, on a recommendation to the Court from the Planning Commission regarding a Comprehensive Plan Amendment to add a site to the County's inventory of significant aggregate resource sites**

Assistant Planning Director Ann Beier presented the application and recommendation of the Planning Commission to add a site to the County's inventory of significant aggregate resource sites. Ordinance 281 is an ordinance of the Crook County Court amending the Crook County Comprehensive Plan Goal 5 Inventory by including a new 3C Aggregate Site and adopting a Site Specific ESEE (Environmental Social Economic Energy) analysis for the mineral and aggregate site and declaring an emergency.

Ms. Beier thanked the Planning Commission for the work done on this project with site visits and holding two public hearings, and appreciated the public comments and the public involvement in the process. The site is two tax lots, and zoned Industrial and EFU. The mining and processing would be outright in the Industrial Zone and different in the EFU zoning the site is a mixed use area. Today's hearing is regarding the addition to the Goal 5 Inventory, the state wide Planning Goal that protects the natural Resources. The question is whether to add and whether to adopt the analysis used by the Planning Commission to make their recommendation. There is quantity and quality, good for aggregate and as an input to concrete. The Planning Commission finds that it meets the test and should be added as a resource.

There have been positive and negative comments, pros and cons, regarding impacts. Information on impacts was presented—should it be found there is little impact—too much or could mining be done with minimized impact. If approved, the Conditional Use Permit (CUP) will have 31 conditions. The Planning Commission has heard concerns of neighbors and has tried to address all the concerns.

County Planner Bill Zelenka said the CUP appeal process only begins if the site is added to the Inventory and the ESEE Analysis is accepted today. Conditions are based on the ESEE. The CUP cannot be drafted and the permit process will not begin unless the site is added to the Inventory and the ESEE are approved and they are site specific.

The Court discussed the number of trips per day, the peak hour trips, truck hours during commuting time, operation times to be set as sunrise to sunset or 6:00 a.m. to 9:00 p.m. whichever is less.

Ms. Beier explained the packet and attachments that speak to the impacts. All Court members received in their packet all the information the same as the Planning Commission received. Discussion was held regarding Elliott Lane, a County Road, and the upkeep of Elliott Lane. The road is used by many industrial users. Ms. Beier discussed reclamation and permits from other departments including the DEQ. The county is the start of the permitting process.

The ordinance, the time of operation that is approved by county code, the requests of the neighbors for sunrise to dusk for operation hours, six day a week operation, berms, dust control are all designed to address impacts.

The Court convened by reading information into the record.

Judge McCabe asked for any ex-parte contact by members of the Court be declared. All Court members said there was no ex-parte contact. Judge McCabe asked for any challenge from the public regarding the declaration. There was none.

### **Motion**

Commissioner Fahlgren moved to read Ordinance 281 by title only. Commissioner Crawford seconded the motion. Judge McCabe read Ordinance 281 by title only. The vote was 3-0, motion carried.

### **Testimony**

Applicant Craig Woodward said the Planning Commission spent a lot of time on this matter, and he appreciates that. He does not want to negatively affect the neighbors. He discussed options to make a gentler grade. The conditions agreed upon should make the burden less. The site can only operate on 10 acres at a time. He presented information on other aggregate pits operating and projects that his company had subbed under and worked on. With the saw mill located on Elliott Lane, there had been 160 trips going in and out. Trips were made taking away from the Williams Pit and Stahancyk Lane. There was extra base and pavement was widened on the turn to address traffic on Elliott Lane. He presented information on aggregate taken away and the elevation gradual slope. Commissioner Fahlgren asked how long the operation was expected to last. Mr. Woodward said it depended on the economy, perhaps up to 10 years. If the economy stays good, perhaps less time.

### **Owners and Application**

Tim Marshall, 32260 Old Highway 34, Tangent prepared the applications and Steve Moat, 32260 Vice President of Operations in Oregon for Knife River presented information regarding the application, the accepting of all 31 conditions and making the site work, information regarding the site plan, the extraction on the EFU property and processing on the Industrial lot. Mining would be on the EFU site in stages, 10 acres of extraction at a time. When one 10 acre site is done, the previous will be reclaimed and the rest for the aggregate. Berms will be created initially to surround the project. Berms and trees will be removed when completed. The Industrial section can be leveled and put back to agriculture when finished. The market will depend on the economy.

The project does require water. There is an agreement with Ochoco Irrigation District (OID) for industrial water. This works well for OID. The water will be transferred back to agriculture at times and provides revenue back for the usage. DEQ, water control permits, DOGAMI and bond reclamation with DOGAMI were discussed.

Questions regarding the operations were directed to Steve Moat. Commissioner Fahlgren discussed the ponds, mosquito control, the size of ponds, pumps, and recirculating water at a rate required by the process. It will have a settling pond, a closed system, a serpentine system and make up water from OID with the closed loop system. There will be two ponds and pumps to recirculate the water at a rate the processing requires. Mr. Moat explained the serpentine system that acts as a big classifier. Mr. Moat said the plans are to open 10 acres early spring, operate in the spring and possibly the fall, take care of reclamation and seeding and run the plant as the market demands. Discussion was held on the Vector Control District and mosquito issue. Possibly one pond might need Vector Control called in. The ponds, if not operating, will probably dry up. Commissioner Fahlgren provided information on the Vector Control District process and asked that there remain an open line of communication.

## **Public Hearing**

Judge McCabe presented the request during the public hearing session that if something has already been said, please don't say it again. The Judge stated that the Court received a letter today from Judy Kennedy regarding the plan and her concerns. The letter was received at 8:00 a.m. on October 7, 2015.

There being no additional comments received from the public, Judge McCabe closed the public hearing and announced there will be another public hearing in two weeks at the next regularly scheduled County Court session.

*10:30 a.m.—10:50 a.m. Break*

## **Consider Request for Financial assistance re: Purchase of Smith Clinic by Lutheran Community Services North West (LCSNW)**

The Court discussed with County Counsel the request from LCSNW for assistance with funding to purchase the Smith building located on North Elm Street. The amount of funding would be \$500,000 from funds that have been put into the County accounts to be used specifically for Mental Health use and none other.

Discussion was held regarding the proposed contract, the language of the contract and the part that the County would play in the purchase of the building if this money is provided as requested. After several options were discussed, the Court asked County Counsel to bring the matter back at the next meeting and to ask LCSNW/ County Mental Health Director Scott Willard to attend.

## **Discussion of using \$1,000 from original Title III funds for Storyline program for Powell Butte Charter School**

Commissioner Fahlgren discussed with the Court the matter of Title III funding that was approved at an earlier meeting for the Storyline program through the Elementary Schools. The Court helped fund the original Storyline Riverkeeping program the benefitted all the Elementary Schools and included the Powell Butte school as well. This was \$15,000 used for training of teachers for the program. This year, the request came from Mr. Bates, Barnes Butte Elementary, for \$4,000 to be used for additional training for the Storyline program. The request was approved. However, there was some confusion surrounding which schools would be part of this, and it was later realized that the funding did not include the Powell Butte Charter School. Dana Millen had come in at an earlier meeting to request funding for the program for the Powell Butte Charter School.

## **Motion**

Commissioner Fahlgren moved to approve \$1,000 from the oldest Title III funds for the Powell Butte Charter School to use for the Storyline program. This project will involve private and Federal lands. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

A Public Notice will be placed in the newspaper regarding the proposed use of Title III funding. After 45 days, if no comment, the funding will be provided to the Powell Butte Charter School for the Storyline Project.



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**Public Hearing, Ordinance 279, creating a Library Tobacco-Free campus, second reading, public hearing, vote**

**Motion**

Commissioner Fahlgren moved to read Ordinance 279 by title only. Commissioner Crawford seconded the motion. Judge McCabe read Ordinance 279 by title only. The vote was 3-0, motion carried.

**Staff Report**

Judge McCabe opened the Public Hearing. Crook County Health Department Tobacco Coordinator Kris Williams provided the most recent data on tobacco use in Crook County, Youth and Adult use with 68 adult deaths attributed to the use of tobacco and tobacco products.

Crook County Library Director presented information regarding the policy from the Library point of view. The Library Board of Trustees in July unanimously adopted the tobacco-free campus policy and moved forward on the County adoption of the Library policy with the legal process as needed.

Tom Jay, Prineville, asked about the current policy. This policy would expand the current policy to the whole block of the Library Campus.

Justin Goelieb addressed the concern regarding enforceability. Ms. Wood said it would be enforced as would any matter addressed by the Patron Code of Conduct.

Commissioner Crawford stated that when he had gone to talk with Ms. Wood regarding this policy, there were people smoking within the 20 feet limit of the building. There is a no smoking policy within 20 feet of the building and it was not being enforced.

Discussion was held between Ms. Wood and Commissioner Crawford regarding this matter. Ms. Wood said the Library employees would take action if they are aware of the offense.

Ms. Williams discussed the education and signage that would be available and make the adopted campus policy easier to understand. Commissioner Fahlgren said he looks at it as if it were a school and there is no smoking or tobacco use allowed on the school campus. Tom Jay said he see people go out during intermission at the schools and smoke in the Court yard. Justin Gotlieb said he does not understand why it's "all or nothing" with tobacco or cannabis.

Darlene Harpster said there has been a lot of talk about a lot of things that have to do with rights. People have the right to smoke or not to smoke. She believes all businesses should be the same. She does not like the idea of interfering with people's rights.

There being no further comments received, Judge McCabe closed the public hearing.

Judge McCabe re-read Ordinance 279 by title.

**Motion**

Commissioner Fahlgren moved to approve Ordinance 279 as presented on the second hearing. Judge McCabe seconded the motion. The vote was 2-1 with Commissioner Crawford voting "Nay".



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Ordinance 279 will go into effect 90 days from today.

There being no further business before the Court at this time in Open Session, Judge McCabe thanked the members of the public for attending and adjourned the Court out of open session and into Executive Session under ORS 192.660(2)(h) To consult with counsel concerning 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)(h) Legal Consultation, To consult with counsel concerning legal rights and duties of a public body with regard to current litigation or litigation likely to be filed**

The Court met with County Counsel to discuss the matters called for under ORS 192.660(2)(h), Legal Consultation. Following the discussion, Judge McCabe adjourned the County Court out of Executive Session ORS 192.660(2)(h) Legal Consultation, To consult with counsel concerning legal rights and duties of a public body with regard to current litigation or litigation likely to be filed and into Open Session.

#### **Open Session**

Judge McCabe convened the Court into Open Session after adjourning out of Executive Session ORS 192.660(2)(h) Legal Consultation, To consult with counsel concerning legal rights and duties of a public body with regard to current litigation or litigation likely to be filed and into Open Session and welcome any members of the public in waiting back into the meeting room.

#### **Motion**

Commissioner Crawford moved to direct staff to communicate with Ed Fitch as was discussed in Executive Session. Commissioner Fahlgren seconded the motion. The vote was 3-0, motion carried.

#### **Motion**

Commissioner Fahlgren moved to direct staff to finalize the agreement and to communicate with the counterparty as discussed in Executive Session and to authorize signature outside of Court. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

Following the motions made regarding the items discussed in the first Executive Session, Judge McCabe adjourned the Court out of Open Session and convened the Court into Executive Session under **ORS 192.660(2)(i) Personnel Performance Review** for Debra Patterson, Director, Juvenile Department.

### **EXECUTIVE SESSION**

#### **ORS 192.660(2)(i) Personnel Performance Review/ Debra Patterson, Director, Juvenile Department**

Following the performance review for Juvenile Department Director Debra Patterson, Judge McCabe adjourned the Court out of Executive Session under ORS 192.660(2)(i) Personnel Performance Review/ Debra Patterson, Director, Juvenile Department, and convened the Court into Open Session

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**Open Session**

Judge McCabe convened the Court back into Open Session and invited any public in waiting back into the meeting room.

The Court agreed to grant Ms. Patterson a merit increase.

There being no further business before the Court that required action at this time, Judge McCabe adjourned the Crook County Court meeting.

Respectfully submitted,

*Colleen Ferguson*

Colleen Ferguson  
Executive Assistant and Crook County Court Secretary  
300 NE 3<sup>rd</sup> Street, Room 10  
Prineville, OR 97754