

Approved October 7, 2015

BE IT REMEMBERED THAT the Crook County Court met in Regular Open Session on August 19, 2015 at 9:00 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 signing the attendance log were: Dave Scott, Prineville; Sher Eriksen, Prineville; Tim Snyder, Prineville; Jesse Snyder; Richard Hill; Mana Callison, Prineville; Cameron Buechert, Prineville; Travis Vail, Prineville; Steve Yancey, Prineville; Darlene and Jerry Harpster, Prineville Jennifer, Kent, Prineville; The Bulletin; Justin Gottlieb: Scott Stanley, Prineville; Darren Hepperle, Powell Butte; Matt McLaughlin, Prineville; Geoff York, Prineville; M. Vail, Prineville; Katrina Rich, Prineville; Kyle Henon, Prineville; J. Anderson, Prineville; Craig Kilpatrick, Redmond; Melissa Kriner, Prineville; John Kriner, Prineville; Camille Wood, County Library Director; Rebekah Burkhardt, Sheriff's Office; Kris Williams, County Health Department; Denise Reinhart, Prineville; Leroy Gray, County Landfill Manager; Jim Bates, Crook County School District; Katie Plumb, Crook County Health Department; Ron Radabaugh, Prineville; Muriel DeLaVergne-Brown, crook County Health Department; John Gautney, Crook County Sheriff's Office; Shaun Cooper, Prineville; Ken Taylor, Prineville; Kathy Gray, Crook County Treasurer; Rhea Roofe, Prineville and Matthew Storts, Prineville, Oregon.

The media was provided notice of the meeting.

Judge McCabe called the meeting to order and invited Dave Scott to lead the Pledge of Allegiance.

CONSENT AGENDA

- 1. Approve County Court minutes of June 17, 2015, June 24, 2015**
- 2. Approve Independent Contractor Agreement for Dietitian Services w/RanDee Anshutz, Synergy Health & Wellness**
- 3. Approve Solid Waste Disposal Fee Credit, Soroptimist of Prineville Senior Center and Neat Repeat**
- 4. Approve Agreement for Long Term Rural Oregon Enterprise Zone Exemption on taxable property in Prineville Oregon.**
- 5. Approve Temporary Non-Exclusive License and Hold Harmless Agreement, Central Oregon Trail Alliance**
- 6. Approve IGA with Water Resources Dept. for Assistant Water Master funding**
- 7. Approve Reinstatement and Second Amendment to Purchase and Sale Agreement and Joint Escrow Instructions**
- 8. Consider and ratify offer on County Foreclosed Property, 888 Ewen Street, Prineville, OR**
- 9. Approve purchase of Ford F-350 Pick-up for Weed Control Department**
- 10. Approve Intergovernmental Agreement #5114 between State of Oregon and Community Corrections**

The Court reviewed the Consent Agenda. Counsel Wilson asked to remove Item 4, incomplete at this time, remove number 8, due to title issues with the title company and go forward with number 7 since it has been reviewed for legal.

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Motion

Commissioner Fahlgren moved to remove items number 4 and number 8, and accept the Consent Agenda as presented with those two items removed. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

SCHEDULED APPEARANCES/DISCUSSION ITEMS

Award of bid contract: Purchase/delivery of unleaded fuel to Crook County Landfill

Assistant County Counsel Eric Blaine presented the continuation of the Landfill Unleaded Fuels award. Based on the most responsive bid of the two revised bids received, Mr. Blaine recommended awarding the bid to Miller Oil, the higher bidder, but the most responsive bidder.

Motion

Commissioner Crawford moved to accept and award the Landfill unleaded fuels contract to Miller Oil. Commissioner Fahlgren seconded the motion. The bid was 3-0, motion carried.

Wildfires in the Grant County areas

Discussion was held on the tragic wild fires in Grant County and the needed donations of non-perishable food, clothes and other household items as well as bottled water. BLM is in charge of the program. Phone numbers were provided to the public to use for more information. 541-280-9560 and 541-416-6864, Lisa.

Consider transferring Road Department's older road sweeper to the Airport

Roadmaster Bob O'Neal presented a proposal to transfer the older Road Department sweeper that is in good condition and has a cab on it to the Airport for use on the runways. The Road Department has a new sweeper, and if the Road Department needed the one transferred to the Airport, it could use it again. Also, if for some reason it was unneeded, it would revert back to the Road Department.

The oldest sweeper currently used at the Airport would be put up for auction and any funds received would go back into the Road Department funding. Commissioner Fahlgren said all the equipment is County equipment, and it can be transferred between departments.

Motion

Commissioner Fahlgren moved to approve the transfer as proposed by the Roadmaster and sign the agreement as approved by Legal outside of Court. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

Landfill

Landfill Manager Leroy Gray arrived. Judge McCabe advised him that the Landfill fuel contract had been awarded to Miller Oil.

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Presentation on school programs, Story Line, Ranching, logging and farming/ Jim Bates

Jim Bates, Crook County School District, presented information regarding this year's planned school event built around the Storyline Program and the training for the teachers involved in the program.

Mr. Bates thanked the County Court for the County's support in the amount of \$15,000 for the first Riverkeepers Storyline Program that served all the elementary classes. The children enjoyed the program, and the school is invested in the program.

This year, the schools are requesting \$4,000 for the training of 15 new elementary teachers and an update for others on the new program this year. The training will be voluntary on weekends as there were no times or funds set aside for this by the schools. This is a tremendous undertaking and will focus on training regarding the Farmers Market, Farm to Table program.

Dana Millen, Powell Butte Charter School, had presented earlier to the Court regarding this same matter. The two will not be working together this year in the program, but the training will be for all. There is a partnership but they will be working on different storylines. Paulina will also be doing a storyline. Up to 1200 children will be involved.

The Court will consider \$4,000 funding out of Title III, old funding, education.

Library Board of Trustees approved Library property to be Tobacco Free, and request Court's approval

David Wise, Crook County Library Board of Trustee presented a request to the Court to extend the boundary of no use of tobacco and tobacco products to the full property line of the library. Use of tobacco does not cater to a learning environment, and children playing on the property should not be subjected to tobacco use.

Commissioner Crawford said he does not believe the Court should regulate the rights of individuals on the County property and does not feel it is a positive thing to do. He suggested creating a smoking area. He said he has met with Camille regarding the people smoking within 20 feet of the building, the current regulation of no smoking within 20 feet of the building, and asked how this could be enforced. Camille Wood, County Library Director said she is not policing the inside or the outside of the library at this time. The patrons come in and report the use or misuse of the property. Chris Williams, Health Department, has agreed to come to the library and do training of the employees regarding tobacco and tobacco uses on the grounds.

Commissioner Fahlgren said there were over 500 in the reading programs this summer, and this area is like the school campuses and there is no smoking allowed on the school campuses and parks. Commissioner Fahlgren reported on the heavy use of tobacco products in the County area by youth.

Chris Williams, Tobacco Education Coordinator, Health Department, said the entire library grounds are used by families and children. If there is a spot set up for smoking, you will still have people walking through that area and it is not a best practice. This affects academic achievements.

Commissioner Crawford and Ms. Williams discussed the law against children smoking, the very high use of tobacco products by the youth of the County and some things not being appropriate for the library.

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Ms. Wood reported that it was a unanimous vote of the Library Board of Trustees to extend the boundaries of the no tobacco products usage on the library property.

Motion

Commissioner Fahlgren moved to accept the recommendation of the Library Board of Trustees to extend the boundaries of the no Tobacco or Tobacco products use to include the entire library property. Judge McCabe seconded the vote. The vote was 2-1 with Commissioner Crawford voting Nay. Motion carried.

Discuss opting out of recreational marijuana sale and manufacturing, Retired Judge Crook County Judge Gary Thompson

Retired Judge Gary Thompson addressed the County Court regarding the Opt Out Option allowed under sections 133 to 136 of House Bill 3400, providing two methods for a County or City to opt out of any one or more categories of medical marijuana processing sites; medical marijuana dispensaries; retail marijuana producers; retail marijuana processors; retail marijuana wholesalers; and retail marijuana retailers. One method can only be used by counties, and only counties that voted against Ballot Measure 91 by at least 55 percent. That method requires no referral for a local vote. Crook County is one of 15 counties in Oregon that voted against the Ballot Measure 91 by at least 55 percent. A second method can be used by any county or city, but requires a referral for a local vote at the next general election, with a moratorium in the meantime.

Judge Thompson presented a brief biography of his years practicing law and serving as Judge on the bench. He worked with people with problems stemming from drug and alcohol use, and he established the first or second drug court on the east side of Oregon. He worked with people closely on their problems and some of those people have died from overdoses. Most started with tobacco and marijuana in school. Marijuana was used through the whole process. Some people stepped away from other drugs but marijuana was always there. He explained Crook County's vote against Measure 91 and House Bill 3400 providing an Opt Out for Counties with an over 55 % no vote on Measure 91.

Now, at present, he would like the Court to Opt Out. He presented information on legislation, the charges and classification of felony charges, chemicals and levels of toxicity raised from 12 -30 percent up to 80-90 percent. He discussed the effects of marijuana on youth and adults and the effects on the IQ's of individuals. In Colorado, road deaths are down from alcohol but up for marijuana. He provided information on checking for levels of intoxicants and search warrants that may be needed. He discussed how people that cannot smoke in public will smoke at home in front of their own children.

Judge Thompson said there had been a lot of talk in some counties about how much money will come in from the sale of marijuana. He said that the amount to be brought in would not pay for one teacher. He spoke on the lack of control for potency level and that smoking brings an instant high. He discussed edibles taking a while to go through the entire system. Judge Thompson said there is nothing constitutional about this. There is not a constitutional right surrounding the use of marijuana. He spoke on the medical and recreational use of marijuana and marijuana cards. The marijuana card is not a prescription; it is a Doctor's permission.

The Court thanked Judge Thompson for his information.

Approval of Ordinance 278, In the Matter of Adopting an Ordinance Prohibiting the Operation of Six State Licensed or Registered Marijuana Businesses (and Declaring an Emergency)

County Counsel Jeff Wilson presented a memo on Ordinance 2015-278, prohibiting the operation of six state licensed or registered marijuana businesses and declaring an emergency.

Mr. Wilson presented an overview of the evolution of marijuana laws, the medical use of marijuana, local control, the moratorium on medical dispensaries and Measure 91 regarding retail marijuana. Crook County voters had a 58.85% no vote on Measure 91.

Mr. Wilson explained the Opt Out option in House Bill 3400 by referral to the voters and the Opt Out option by the County if County Voters voted Measure 91 down by at least 55 %, which Crook County did. He also provided an explanation for the emergency clause included in the Ordinance.

Mr. Wilson explained why this matter needed the emergency clause. Senate Bill 460, to begin selling marijuana retail on October 1, 2015, could have the argument be made that if this were not in affect, this could be possibly be grandfathered in.

Mr. Wilson explained that no public hearing is required to adopt this ordinance. He is recommending dispensing with the public hearing, and having the first and second reading of Ordinance 278 by title only.

Commissioner Fahlgren noted that the County action does not change the City's jurisdiction. Mr. Wilson said this Opt Out is only for Crook County outside the City Limits of Prineville.

Bill Zelenka, County Community Development Director and County Planner said that retail has to be in a Commercial Zone. Crook County has limited Commercial Zones. Since the retail cannot be within 1000 feet of a school or Federal Post office, there could be no retail in either Post or Paulina because both areas have a commercial zone but the zones are within 1000 feet of either a school or and/or a Federal building, so no operation is authorized.

Legislation is part of the measure for considering growing of marijuana in EFU zone. Income cannot be used as justification for a dwelling for farm use and marijuana cannot be identified as farm use. Therefore, marijuana growing is specifically excluded from farm use.

The Court decided at 10:15 a.m. to allow a 15 minute Public Hearing.

Judge McCabe opened the Public Hearing.

Justin Gotlieb, no address, testified that he is involved in this marijuana growing matter throughout the state and feels it is a good way to get people back to work. Allowing the growing would increase Economic Activities and announced that the Central Oregon Cannabis Association may be forming in the area.

Kyle Henon, 1395 SE Lynn Blvd, testified there are higher DUII numbers in dry counties. Commissioner Crawford said the Court is not proposing Crook County as a dry county. Commissioner Fahlgren said this will not be a dry county. There will just not be any growing operation on property located in the County. Mr. Henon presented information on money that could be brought in for schools from the taxes.

Ron Radabaugh, 6741 NW Lamonta, Prineville, provided information on the federal government's efforts over the last 30 years to stop the Marijuana businesses at the cost of millions of dollars with no success. The plant is cannabis and the process is losing ground. It is not going to slow down the use. He discussed opening free educational areas where people could try samples, learn how to use it, provide education regarding use of marijuana and really looking into it.

Mr. Radabaugh spoke about people that he knew that used cannabis responsibly. He said he would like to see some industry around the local area. Mr. Radabaugh said there is an aging out group and new users coming up.

Geoff York, 585 SE 5th, Prineville discussed production, hemp growth and medical marijuana. Mr. York discussed with the Court the black market, drug dealers, regular regulated store fronts that check ID, and education regarding use of the marijuana. The legal system and code compliance were discussed.

Darren Hepperle, 12207 Riggs Road, Powell Butte, said he had inherited a farm in Powell Butte and is looking at new avenues for farming and new ways of making money for his family. He said the production of the Marijuana requires daily work with plants. He believes opting out would be a bad idea because Crook County already has a broken economy. Regarding measure 91 that was voted down in Crook County, he said lots of people will do it anyhow. Discussion was held regarding that if a law is made; only law abiding people obey the law.

Mr. Hepperle said this production would add to the economy and increase the economy for the County.

Ken Taylor, 2200 NW Century Drive, Prineville said he has been a Youth Pastor and kids are going to do what they want to do. He discussed making additional laws, being a child of the 60's and a veteran and just doing the right thing.

Darlene Harpster, 2040 NE Bitterbrush, Prineville spoke to the Court. She reminded the Court that this was an election year, and the voice of the public has spoken and does not want Measure 91. They have spoken with the no on Measure 91 vote.

Motion

Commissioner Fahlgren moved to have two readings of Ordinance 278 by title only. Commissioner Crawford seconded the motion. Judge McCabe read Ordinance 278 by title only. The vote was 3-0, motion carried.

Commissioner Crawford moved to read Ordinance 278 by title only. Commissioner Fahlgren seconded the motion. Judge McCabe read Ordinance 278 by title only. The vote was 3-0, motion carried.

Motion

Commissioner Fahlgren move to accept and approve Ordinance 278 and declare an emergency. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

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Public hearing and opportunity for comment: Order 2015-29 Amendment 2, Crook County Fee Schedule

Leroy Gray, County Landfill Manager, presented information regarding a change in the Landfill rates regarding dead animals and asbestos.

Discussion was held between Mr. Gray and the Court regarding the problems with companies bringing animals in from other counties as well as Crook County by the trailer load. Rendering would be a solution.

With all the animals, it takes a lot more monitoring, there are compaction problems, and it could become a leachate problem if the heavy amount continues. Mr. Gray does not want this to affect the small operations, but for large commercial operations, they should go to rendering.

Regarding asbestos, there is a surcharge and it is per job per day. Some contractors are putting 10 jobs into one trailer. Mr. Gray said the asbestos has to have immediate cover, so this is being done three or four times per day. The pit is surveyed one time a year by EPA.

Right now, Crook County is losing money on the asbestos disposal. Crook County needs to raise fees to the same amount as Deschutes County, and that would stop multiple jobs from coming in at one time.

Discussion was held on DEQ, permit and tipping fees, and rebates back to seven of the most distressed counties.

Grant programs help in recycling or disposed waste.

Judge McCabe opened the Public Hearing. There were no comments received. Judge McCabe closed the Public Hearing.

Motion

Commissioner Ken Fahlgren moved to approved Amendment 2 to Order 2015-29, amending County Landfill fees. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

Consider offer on County Foreclosed Property, Steve Yancey Addition

Counsel Jeff Wilson presented an offer to purchase a parcel of County owned foreclosed property. The offer is \$700 on a \$7,000 piece of property. The offer is made by the adjoining property owner. There is no access to the property, the property is in the floodway and is not buildable. The Realtor of Record recommended accepting the offer.

The Court discussed the offer and decided to counter the offer at \$2,000.

Motion

Commissioner Fahlgren moved to counter the offer of \$700 at \$2,000, and to authorize Judge McCabe to sign the documents outside of Court. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

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Consider Video Lottery requests for funding (Cont'd from 8/5/2015 County Court meeting)

The Court reviewed the list of video lottery funding requests and addressed each request.

Motion

Commissioner Fahlgren moved to change the final copy of Video Lottery requests and sign outside of Court. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

Motion

Commissioner Fahlgren moved to provide \$4,000 from the Oldest Title III funding for the Storyline classes training. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

Addition

Commissioner Fahlgren provided information on the backup generator repair at the Health Department. The range for repair is \$4,000. The Emergency backup must be repaired.

Commissioner Fahlgren will send the final information on the bid for repair to the Counsel's office.

Darren Hepperle

Darren Hepperle came back into the meeting to ask if he could get a copy of the list of attendees at the meeting. Mr. Hepperle was advised to contact Colleen Ferguson after the meeting for a copy.

There being no further scheduled matters before the Court at this time, Judge McCabe adjourned the Court out of Open Session and into Executive Session under ORS 192.660(2)(i), Performance Evaluations for Department Heads Steve Dougill, GIS/IT: Community Development Director Bill Zelenka and Library Director Camille Wood.

EXECUTIVE SESSION

ORS 192.660(2)(i) Performance Evaluations

GIS/IT Director Steve Dougill
Community Development Director Bill Zelenka
Library Director Camille Wood

Upon Completion of three Performance Evaluations of Department Heads Steve Dougill, GIS/IT: Community Development Director Bill Zelenka and Library Director Camille Wood, Judge McCabe adjourned the Court out of Executive Session and into Open Session.

Open Session

Following the Performance Evaluations of Department Heads Steve Dougill, GIS/IT: Community Development Director Bill Zelenka and Library Director Camille Wood, Judge McCabe convened the Court into Open Session and invited the public back into the meeting room.

The Court agreed to approve merit raises for Steve Dougill, Bill Zelenka and Camille Wood.

At this time, the Court took a brief lunch break before convening at 1:30 p.m. back into Executive

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Session under: **ORS 192.660(2)(e)** To conduct deliberations with persons designated by the governing body to negotiate real property transactions, and **ORS 192.660(2)(f)** For the purpose of considering information or records that are exempt by law from public inspection and **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. The Court convened in the County Counsel's Office located at 203 NE Court Street, Prineville, Oregon.

Executive Session 1:30 p.m. County Counsel's Office, 203 NE Court Street, Prineville, Oregon

Judge McCabe convened the Court into Executive Session under **ORS 192.660(2)(e)** To conduct deliberations with persons designated by the governing body to negotiate real property transactions: **ORS 192.660(2)(f)** For the purpose of considering information or records that are exempt by law from public inspection and **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.

The Court discussed with County Counsel and Assistant County Counsel the matters before them in the Executive Sessions. Following discussion of all items, Judge McCabe adjourned the Court out of Executive Session and into Open Session.

Open Session

Judge McCabe convened the Court into Open Session and invited any public waiting into the room

Motion

Commissioner Crawford moved to direct staff to correspond with the developers 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 correspond with HSR and put preliminary master form into final form as discussed. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

Motion

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

There being no further business requiring action at this time before the Court, Judge McCabe adjourned the meeting at 2:40 p.m.

Respectfully submitted,

Colleen Ferguson

Crook County Court Secretary