

BE IT REMEMBERED THAT the Crook County Court met in a Regular Session on November 5, 2014 at 9:00 a.m. in the County meeting room located at 320 NE Court Street, Prineville, OR 97754. 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: Duane Garner, Parks and Recreation, Prineville; Sher Eriksen, Prineville; Angie Gilley, Veterans Services, Prineville; Kate Klein, Ochoco National Forest Service, Prineville; Patrick Lair, Ochoco National Forest, Prineville; Kris Williams, Crook County Health Department (CCHD); Muriel DeLaVergne Brown, CCHD; Carly Rachocki, CCHD; Alyssa Speece, CCHD; Jane Aggers, Prineville; Jerry and Darlene Harpster, Prineville; Gail Merritt, Fair Board; Tim Ray, Fair Board; Kathy Gray, Treasurer; Casey Daly, Crook County Fair Grounds; Daina Vitols, District Attorney and Debbie Smith, Fair Board.

The media received notice of the meeting.

Judge McCabe called the meeting to order and asked Ochoco Forest Service Supervisor Kate Klein to lead in the Pledge of Allegiance.

Consent Agenda

1. **Approve minutes of October 15, 2014**
2. **Approve Order 2014-01, Amendment, Designation of Newspapers of Record**
3. **Approve Order 2014-61, Updating Crook County Employee Handbook regarding Meal and Rest Periods**
4. **Approve Order 2014-62, Increased appropriations, grant fund, Health Department**
5. **Approve Order 2014-63, Appropriation Transfer Gen Fund, contingency to Materials and Services and Fairgrounds Capital outlay, to Fairgrounds Capital fund, transfers out**
6. **Approve Order 2014-64, Appropriations transfer, Library**
7. **Approve Order 2014-65, Decreased/Increased Appropriations, Grant Fund/Healthy Families**
8. **Approve Order 2014-67, In the matter of Capitalization Policy for County**
- ADDITION** 9. **Approve Order 2014-69, Updating the Crook County Employee Handbook regarding Leave Sharing Plan**
9. **Approve Last Chance Agreement**
10. **Approve Houston Lake Leveling Course Contract with Tri County Paving LLC**
11. **Approve Agreement between Crook County and Oregon High School Equestrian Teams Inc. (OHSET)**
12. **Approve 2014 Fund Agreement with ODOT—Juniper Canyon Project**
13. **Approve 10th Amendment to OHA 2013-2015 IGA for the Financing of Public Health Services Agreement 142006**
14. **Approve 2014-2015 CaCoon Agreement # 1004395**
15. **Approve employee step increase**
16. **Approve Amendment #1 to the SunGard Public Sector Inc., Service Provider Agreement (removing the HR applications for employment applications and employee records management)**

Approve by County Court January 7, 2015

The Court reviewed the Consent Agenda. Discussion was held regarding the item number 14, CaCoon Agreement, and the two Human Resources items, number 3 and the addition.

Motion

Commissioner Fahlgren moved to approve the Consent agenda as presented including the item listed as an addition. Commissioner Crawford seconded the motion minus number 9, the Last Chance Agreement for an employee that Commissioner Crawford voted against at the previous County Court meeting. Commissioner Fahlgren and Judge McCabe were both in favor of number 9. The vote was 3-0, with Commissioner Crawford restating that he was not approving the Last Chance Agreement.

Ochoco National Forest Supervisor Kate Klein, update on Forest Service matters and salvage logging

Kate Klein, Ochoco National Forest Supervisor and Patrick Lair, Forest Service Public Affairs, presented handouts to the Court members with information regarding updates on the Ochoco Forest.

Information was provided regarding post-fire operations following the 7700 acres Bailey Butte fire of which a portion was in Wheeler County and the 7000 acre Fox fire. The post fire rehab analysis is being done on the road work to be done, drainage for the increased run off, preparation of roads, fencing and plants with the cost of the analysis at \$192,000. There is a need for 24 miles of replacement fencing, and the funding has been requested for that project but there is no verification at this time as to the receipt of the funds. This is important for future grazing. The total acres of reforestation have not been identified yet due to all the surveys not being completed. Funds have been requested for that project as well.

Ms. Klein provided information on the salvage sale from the Bailey Butte, Fox, Lava and Buck Fork fires. The focus salvage analysis has been on the Bailey Butte area. Public roads need snags removed. The proposed action would involve about 1000 acres of salvage, 600 along roads. There is an expected 300 acres of harvest area within the fire areas. There has been a requested emergency determination. The map provided was reviewed by Ms. Klein and the Court members. The fire started on private land and went onto the federal lands. On the map, there was a research area marked that has had no active management for 30 to 40 years and is for research only. The fire severity was pretty high and will be allowed to recover on its own. The fence around the area was burned. There is a concern about invasive growth because the area has not been available for grazing or clearing. The research area predates the wilderness designation on the Ochocos.

Discussion was held regarding the public comment period. Commissioner Fahlgren discussed the dangerous trees that have dropped on both highway 26 and on the forest roads. Ms. Klein discussed the proposed salvage being for standing lengths. Commissioner Crawford discussed the trails and the salvage and rehab of the trail areas. Ms. Klein said she is not sure the trail areas have been considered for post fire rehab. She suggested that Commissioner Crawford make comments regarding the trails and trail system during the comment period. Commissioner Fahlgren discussed the property along the fence lines. Ms. Klein said she was not sure why the area was not accessed along the fence line and suggested comments on that issue as well. Discussion was held regarding submitting the comments as County comment, and Mr. Wilson said he will be available for help in writing the comments. The comments will be required by December 4, 2014.

Darlene Harpster asked for email addresses. Patrick Lair provided the email addresses and web site address. The comment period on this proposed action will not be as regulated as official actions.

Ms. Klein discussed with the Court the OHV project on the Ochoco Summit. There have been substantial objections to the project. Ms. Klein has met with the local residents. She has withdrawn the final and will do a supplemental draft of the review that is expected to be out in December. The project had 24 or 25 objectors and was the region record for objections until the Sisters Trail project was put out.

Discussion was held on the work of the Forest Collaborative group, working along with the Forest Service. Discussion was held on the Eastside Restoration Strategy, the capacity, the staffing on Malheur, the pre-commercial logging, the contracts out for the logging creating jobs with over 6,000 acres of thinning. Ms. Klein said there has been good competition on bidding and on the sales. Judge McCabe discussed the stewardship of property, Grant and Harney County logging and mills, a positive impact but no funds going to the counties. A discussion was held on private timber costs, Secure Rural Schools and keeping a balance between stewardship and sales.

Ms. Klein also reported on the YCC program that involved 25 young people between the ages of 15 to 18. The work done by the YCC also included AmeriCorps Heart of Oregon workers. Judge McCabe said that the County has provided funding for the AmeriCorps Heart of Oregon with the requirement that all the young people need to be local. Historically, young people were brought in from out of the area, but this year the Court stipulated that if the County provided funding, the crew must be made up of local young people.

Ms. Klein reported that there was a lot of trail work done on the Black Canyon trail system. There is a proposal for Look Out Mountain bike trails, there have been lots of comments on all sides of the proposal. These would be non-motorized vehicle trails.

Judge McCabe asked Ms. Klein to come back in December if possible. Commissioner Crawford said he wanted to hear the changes about trails and salvage logging along the Bailey Butte Trails and trails along the fence line. She will try to bring back information by the 17th of December.

Ms. Klein announced that she will be retiring at the end of this year. A new Forest Supervisor should be in the position by late January of 2015.

Award of contracts-Crook County RV Park Engineering /Crook County RV Park Rehabilitation Project/Approve Order 2014-66, Sole Source award/County Counsel

Crook County Parks and Recreation Director Richard Bonine and Duane Garner, Crook County Parks and Recreation, appeared to discuss the awarding of the Crook County Parks and Recreation RV Park project, both the Engineering award and the Rehabilitation Project award.

Jeff Wilson presented information regarding the bids received for the project.

Dowl HKM and RH2 Engineering were the two bids received for the Engineering portion of the project. This award is not based on the low bid but on the qualification standards that are met. The evaluation committee makes the recommendation as to the company to award the bid to the County Court, and if the recommendation is approved, legal goes back to negotiate the cost with the company. Dowl HKM did not attend the prebid meeting. When Mr. Wilson contacted them, they told him that the invitation did not reference the meeting. Both bids were evaluated and the Committee recommends the award to RH2 Engineering subject to the County's successful negotiation of a final agreement, including but not limited to compensation and work schedule.

Mr. Wilson presented information on the second award that is for the RV Park Rehabilitation portion of the project. Elk Mountain Construction LLC and Griffin Construction LLC responded. There were five components to the RFP. The bid requirements, the components and the problems with the bids were discussed. Based upon the bids received, Griffin Construction LLC is the apparent low bidder. The County did not receive bids for the pedestals. The pedestals will be alternative sole source. The County has the option to purchase the pedestals on a sole source as they are only available from one source. Order 2014-66 is an order regarding the sole source and the purchase. EOFF Electric Supply will provide the needed pedestals. There will be 82 campground pedestals at the source procurement amount of \$78,254.90.

Motion

Commissioner Fahlgren moved to accept the engineering portion of the project bid and award the project bid to RH2 Engineering Inc., subject to County Counsel's successful negotiation of a final agreement and to authorize the signing of the final contract outside of Court. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

Motion

Commissioner Crawford moved to award the Crook County RV Park Rehabilitation contract to Griffin Construction LLC as the apparent low bidder and authorizing the signature of the contract outside of Court. Commissioner Fahlgren seconded the motion awarding the contract to Griffin Construction LLC at the low bid price of \$123,648.00. The vote was 3-0, motion carried.

Motion

Commissioner Fahlgren moved to approve Order 2014-66 and award the sole source contract for the 82 Campground pedestals to EOFF at the cost of \$78,254.90, and to authorize the signature of the contract outside of Court. Commissioner Crawford seconded the motion. The vote was 3-0, motion carried.

Judge McCabe and Crook County Parks and Recreation representatives Duane Garner and Richard Bonine discussed the stump grinding portion of the rehab project, the filling of the holes and the setting of new bicycle racks all around town.

PUBLIC HEARING

Ordinance 272, An ordinance prohibiting the sale to minors of Electronic Delivery Devices and E-Cigarettes: Prohibiting the use of such devices in County enclosed area; prohibiting the use of such devices in County breezeways and access ramps; locating such devices within retain stores; and prohibiting the possession of Electronic Delivery Devices by minors

Muriel DeLaVergne-Brown and Chris Williams of the Crook County Health Department thanked the Court for having this matter on the agenda and promoting community health.

Assistant County Counsel Eric Blaine presented the Ordinance 272 staff report addressing five issues: 1) Prohibiting the sale of e-cigarettes to minors; 2) Requiring products to be placed behind the counter in stores the same as tobacco products; 3) the prohibiting of use of e-cigarettes in County buildings; 4) Extending the prohibition of smoking e-cigarettes in County buildings to prohibition of smoking in County breezeways and ramps and 5) the County prohibiting the use of e-cigarettes by children the same as the state prohibits tobacco use and products by children.

Judge McCabe asked if the City has an ordinance addressing the e-cigarettes. Ms. Williams said the City Council has directed City Counsel to draft an ordinance to regulate the use of the products in the City as the County is in this ordinance.

Motion

Commissioner Crawford moved to read Ordinance 272 by title only. Commissioner Fahlgren seconded the motion. The vote was 3-0, motion carried.

Judge McCabe read Ordinance 272 by title only and opened the Public Hearing.

Angie Gilley addressed her concerns regarding the prohibition of use in the specified spaces when people are using these products medically in the attempt to quit smoking tobacco products. She said the smoking the e-cigarettes does help. Ms. Gilley said there have been studies on this matter and there has been nothing come out from the Surgeon General on the matter. Ms. Gilley said she feels the rights of smokers have been trampled and that using these products helps keep her working in her office instead of leaving to go out as one would do with a tobacco product. She also wondered why this ruling was expanded to include the breezeways and ramps.

Ms. DeLaVergne-Brown said this is partially due to the 20-foot rule and part of the indoor clean air act in Oregon. She discussed the studies and regulations of e-cigarettes, the chemicals in the e-cigarettes and the 2nd hand smoking issues. Ms. Williams said there is discussion at this time regarding the vapors from the electronic products and e-cigarettes, the carcinogens and nicotine level.

Discussion was held regarding the confusion on non-smoking facilities due to e-cigarettes looking like regular cigarettes and the flavors of the cigarettes. Also discussed were the seven approved methods of smoking cessation and e-cigarettes not being a part of the seven approved methods. Ms. Gilley said she has tried the seven approved methods and has been allergic to some of them, and still feels the rights of a smoking person have been taken away. Ms. DeLaVergne said there is still the 20-foot rule of no smoking for the County owned properties.

Gordon Aggers asked the Court members how this could be enforced. Discussion was held between Mr. Aggers and Ms. DeLaVergne-Brown regarding the money spent in marketing toward youth, the schools with this rule already in place, the regulations that are regulating some of the products while other products from China have no regulation. Mr. Aggers wondered if this ordinance is trying to re-invent the wheel.

Ms. Williams said the state will be introducing e-cigarette in the tobacco laws. As far as enforcement, as long as the retailers are educated, they are good about following the rules.

Ms. Gilly said the FDA has not done anything and the next thing that is going to be against the rules and law will be perfumes, candles and incense.

Ms. Williams advised the Court and public that the Health department has a lot of information on the electronic products and e-cigarettes. Ms. DeLaVergne-Brown said the kids are getting hold of the cartridges and they don't have childproof packaging and are highly toxic.

There being no further comments, Judge McCabe closed the Public Hearing.

Motion

Commissioner Fahlgren moved to approve Ordinance 272 on the first reading. Commissioner Crawford seconded the motion. Judge McCabe re-read Ordinance 272 by title into the record. The vote was 3-0, motion carried.

The second reading will be held at a future Court meeting.

ADDITION TO THE AGENDA District Attorney Office Situation

Daina Vitolins, Crook County District Attorney, presented information regarding the addition of a half-time legal assistant position for Child Support Enforcement and described the funding available for this position. This would increase the child support collections and would have someone in training for the position of Child Support Enforcement if needed. The position for legal assistant is Grade 5 Steps 1-10 and would be half-time.

Kathy Gray, Treasurer, was asked to comment on the funding to support the position by Counsel Jeff Wilson. Ms. Gray said there is currently no available funding, and the payroll for this position would have to be back filled. Ms. Vitolins said this is being funded with a reimbursement and will be back filled. Ms. Gray said the amount of \$12,250 payroll will have to be changed and could come out of contingency.

Ms. Vitolins discussed the \$6,739 incentive pay fund, and Ms. Gray said the \$12,250 change will be in personnel services.

Judge McCabe and Ms. Vitolins discussed the reimbursement dates and amounts that came from forfeiture cases. She will be asking the Multi-Disciplinary Team for the additional \$10,000 needed.

Debbie Fultz, Child Support Collections, had provided information regarding growth in sustainability, collections that will go up and State unclaimed property. Garnishments can go against those funds.

Judge McCabe asked about the amount again, \$17,000 and asked if it would be here by December 1, 2014. Further discussion was held regarding the need for a backup plan.

Motion

Commissioner Fahlgren moved to go ahead with the funding for half-time legal assistant for child support collection at Grade 5 steps 1 through 10. Commissioner Crawford seconded the motion and Judge McCabe restated the information regarding back filling. Discussion

Kathy Gray discussed a full-time position payroll amount. Ms. Vitolins said a half-time Restitution Clerk position is currently open, and with the two half-times, the position could be a full time legal assistant, one half legal for child support and one-half restitutions that would include benefits. This would come to \$46,895.90 with salary and benefits with one-half paid by federal funds and one-half paid by grants and forfeitures. Ms. Vitolins said the half time restitution clerk's position is in the budget through June 30, 2015. This also includes a vacation payout for an employee leaving the position.

The vote was 3-0, motion carried.

Discussion regarding 2015 County Court meeting schedule and County Holiday schedule.

County Court Secretary Colleen Ferguson presented the County Court meeting schedule for 2015. The November meeting times need to be changed due to the AOC Conference held the third week of November each year. The Court generally meets the first two Wednesdays of November. In 2015, the second Wednesday is on Veterans Day, November 11, 2014 and will not work as a meeting date. The proposed schedule will move the meeting that week from Wednesday, November 11, 2014 to Thursday, November 12, 2014 at 6:00 p.m. The Court agreed by consensus to the change and the schedule with the changes.

There being no further matters before the Court in Open Session, Judge McCabe adjourned the Court out of Open Session and into Executive Session under ORS 192.660(2)(h) Legal Consultation.

Executive Session

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 Legal Counsel the matter before them. Following the discussion, Judge McCabe adjourned the Court out of the Executive Session under ORS 192.660(2)(h) Legal Consultation and back into Open Session.

Open Session

Judge McCabe reconvened the Court into Open Session after adjourning out of Executive Session under ORS 192.660(2)(h) Legal Consultation and invited any public waiting back into the meeting room.

Motion

Commissioner Crawford moved to direct staff to convey the check from the Roundup Board to the Finance Department as payment in full. Commissioner Fahlgren seconded the motion. The vote was 3-0, motion carried.

Judge McCabe adjourned the Court out of Open Session and into Executive Session under ORS 192.660(2)(h) Legal

Executive Session

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 met with Counsel to discuss the matter before them. Following the discussion, Judge McCabe adjourned the Court out of Executive Session under ORS 192.660(2)(h) Legal and back into Open Session.

Open Session

Judge McCabe reconvened the Court into Open Session after adjourning out of Executive Session under ORS 192.660(2)(h) Legal Consultation and invited any public waiting back into the meeting room.

Motion

Commissioner Fahlgren moved to direct staff to send a letter to Penny Keller after a phone call is made to the Keller's. Commissioner Crawford seconded the motion. Judge McCabe restated the motion. The vote was 3-0, motion carried.

Judge McCabe adjourned the Court out of Open Session and into Executive Session under ORS 192.660(2)(b) Consider dismissal or to hear complaints

Executive Session

ORS 192.660(2)(b) For the purpose of considering the dismissal or disciplining of or to hear complaints or charges brought against a public officer, employee, staff member or agent who does not request an open hearing.

The Court met with the Counsel and those involved for this discussion. Following the discussion, Judge McCabe adjourned the Executive Session and reconvened the Court back into Open Session.

Open Session

Judge McCabe reconvened the Court back into Open Session and invited any public waiting back into the meeting.

There being no further business scheduled before the Court today in Open or Executive Session, Judge McCabe adjourned the meeting at 1:05 p.m.

Respectfully submitted,

Colleen Ferguson

Crook County Court Secretary