

MINUTES
UMATILLA COUNTY BOARD OF COMMISSIONERS

Meeting of September 8, 2021
9:00 a.m., Room 130, Umatilla County Courthouse
Pendleton, Oregon
Public call-in phone number: 541-728-0275

Commissioners Present: Chair George Murdock, Vice-Chair John Shafer, and Commissioner Dan Dorran

County Counsel: Doug Olsen

Guests Present: Jennifer Blake, HR Director; Marie Simonis, Assistant Director - Finance

Video link or Calling in: Tom Fellows, Public Works Director; Planning: Bob Waldher, Director; and Megan Green, Planner; Kim Beck, CDDP Manager; + *see list of video or call-in, copy on file.*

CALL TO ORDER: Chair Murdock called the meeting to order at 9:00 a.m. He reminded all that the meeting is a public forum and there is a call-in option provided. There is time on the agenda to provide input or for hearings to provide comment. The meeting is being video and audio recorded and minutes will be taken. Also, meetings are now live-streaming. Comments will become part of the meeting record. If persons wish to speak before the Board, please identify yourself and state where you live in order to be heard on the record – also note if you are speaking on behalf of others.

Pledge of Allegiance

Awards/Correspondence/Recognition. Commissioner Dorran read letters of commendation from the Sheriff’s Office submitted by Cpt. Karen Primmer for (1) Karie Roberts & Hannah Foster dispatchers, for great handling of an incident involving a missing child in August and (2) Kylee Peck, dispatcher for great handling of a shooting incident near 40 Taps in Pendleton in August. Great job all!

Minutes – Commissioner Shafer moved to approve the Board minutes from the meeting of 8/18/21. Seconded by Commissioner Dorran. Carried, 3-0.

Additions to Agenda – none.

Public Comments – none.

Business Items

1. **Land Use Appeal [Hunsaker Land Division] - Public Hearing.** Chair Murdock called the public hearing to order at 9:08 a.m. He made introductory comments and the opening statement as well as explaining the process to be followed. This is an appeal of Planning Commission decision made on July 6, 2021, approving 3 parcels (Board approval for zone changes was on 6/16/21. Applicant Hunsaker was dissatisfied with the conditions of approval placed on the land division. Chair Murdock asked for any ex parte contact by the commissioners. Commissioner Dorran noted he had spoken with Mr. Hunsaker and also county counsel; however, he did that would impact his decision.

Staff report was given by Megan Green, Planner. As noted in Chair Murdock’s introductory comments, this is an appeal of the Planning Commissioner decision as noted above because the applicant was dissatisfied with the conditions placed on the land division – she explained standards must be met and reasons for appeal, plus explanation of Board action options.

Chair Murdock asked for proponents.

Richard Hunsaker, appellate in this hearing. However, before continuing, Bob Waldher, Planning Director, asked if there were questions for staff after the report? Commissioner Shafer asked, regarding conditions placed on the applicant, are there more (conditions) for this applicant? Or are they the same for all? Ms. Green noted these are the same for all applicants. No other questions.

Mr. Hunsaker proceeded. Issues were unclear to him and he requested additional definition regarding 1) naming of the road, and 2) emergency vehicle turn around. Staff has met with the City of Hermiston and believes there is agreement on naming the road; he requested clarifying the naming of the road on the plat. How to label it and what is acceptable. Ms. Green responded the applicant must go through the process, but there is more than just the city to confer with. The road will be named NW 17th Street, and that name must be reflected on the plat. Mr. Hunsaker was directed to name it the road NW 17th. Ms. Green will send an application to be used for proper naming.

2) Regarding emergency turn-around access, he proposed a different style of access and requested how it is to show on the plat. Ms. Green talked about the 50' radius turn around, whereupon she contacted Fire District (email referred to p. 152). The Fire District agreed a turn around may be useable to the district, although it is different from the county's requirement for a turnaround; thus, that requirement is not met. Mr. Hunsaker advised he will submit proper documentation to the county and Ms. Green agreed it would be reviewed. She elaborated that an emergency turnaround is to be dedicated and available and shown on the partition plat. In response to Mr. Hunsaker's question about a specific location, Ms. Green advised that is up to him to decide -- one turn around, to be approved by the Fire District and County Planning Department.

Mr. Hunsaker referred to photos of lot showing CC&Rs will determine allowances for the 3 parcels (single family dwellings and his requirements) and will require sharing of costs of the 3 and private easement while meeting county standards.

Mr. Olsen noted at this point, the applicant appears to be satisfied as to conditions of the Planning Commission. Mr. Hunsaker needs to address emergency turn around as noted earlier and also to determine where the location is as well as depicting it will be a hammerhead on the partition plat. Mr. Olsen advised this needs to be documented on the plat.

Commissioner Shafer asked if Planning staff is satisfied with what's been discussed. Mr. Waldher believed the applicant's suggestion should work, but the Board of Commissioners may want to modify the condition regarding a 50- radius turn around to have language of "hammerhead" turn if that's the alternate proposed by the applicant. Also, per standard, if it is to be shown on the partition plat, it would be acceptable. In addition, the county may want to get the fire chief's acceptance prior to recording the plat. Mr. Hunsaker agreed with that.

To address that, Mr. Waldher advised it would be done with a preliminary partition prior to recording of the plat, where it would be shown as agreed. This would remain a precedent condition. He also suggested including language of verification of the Fire District regarding accepting the location of a hammerhead turn around for assurance all conditions are satisfied.

Murdock to counsel, are notes of today's meeting minutes sufficient? Mr. Olsen: condition #3 should have alternate language regarding the "hammerhead" approach and satisfy the 50' turn around as alternate. He feels the Planning Commission action could be approved. In addition, action to approve the decision with amended conditions as discussed then, the final partition plat would go to the Commissioners for signatures at later date.

Commissioner Dorran commented about a lot of time spent in this process; Mr. Hunsaker is working hard and all have been patient working through requirements. This property is good development. Mr. Hunsaker also agreed that Planning staff has been very helpful in this difficult and complex process.

Chair Murdock asked for others in favor. None were heard. Chair Murdock asked for any in opposition? None were heard. He asked for any public agencies comments? None were heard. He closed the public hearing at 9:31 a.m.

Mr. Hunsaker asked if there were any other public comments? None were heard.

Commissioner Shafer moved to approve the appeal of the Planning Commission decision with amendment of (1) 50' radius turn-around changed to a hammerhead design, and (2) to include an OK from Fire District #1 prior to recording the plat and adoption of Order No. BCC2021-070. Seconded by Commissioner Dorrn. Carried, 3-0.

Mr. Hunsaker asked for clarification regarding naming of the street. Mr. Olsen noted as per prior discussion, the plat should read NW 17th.

2. City of Umatilla Ordinance Co-Adoption - Public Hearing. Chair Murdock called the public hearing to order at 9:33 a.m. Mr. Olsen reported. This is for official co-adoption of City of Umatilla Ordinance #850, which the city council adopted last night. Action is to officially add an additional 150 acres to the city's Urban Growth Boundary. The Board of Commissioners previously adopted the plan amendment; this is to co-adopt Ordinance #850.

Chair Murdock asked for any in opposition? None were heard. He asked for comments from any public agencies? None were heard. He closed the public hearing @ 9:34 a.m.

Commissioner Dorrn moved to adopt Ordinance No. 2021-08. Seconded by Commissioner Shafer. Carried, 3-0.

3. STIF Grants. Presented by Megan Green, transit coordinator. The Board previously approved an increase of \$200,000 in the System Sustainability Fund, which was due to an un-programmed carryover. Applications were received from the City of Hermiston (\$70,000 for marketing WORC taxi program, hiring a consultant on the STF/STIF consolidation of Senior/Disabled and WORC taxi programs) and from the City of Pendleton (\$42,000 for marketing in Pendleton's Public Transit System). With award of these grants for the FY22-23 biennium, the result would be \$88,000 remaining in this fund and to continue carryover for county transit projects. **Commissioner Shafer moved to approve award \$70,000 to the City of Hermiston. Commissioner Dorrn seconded the motion. Carried, 3-0. Commissioner Shafer moved to approve award of \$42,000 to the City of Pendleton. Seconded by Commissioner Dorrn. Carried, 3-0.**
4. Creation of Position - CDDP. Presented by Kim Beck, CDDP Director. Approval is sought to create a new service coordinator position. The position will be paid out of additional contract monies received through the '21- '23 state allocation and is requested to be effective immediately. **Commissioner Shafer moved to approve creating a new CDDP Service Coordinator position. Seconded by Commissioner Dorrn. Carried, 3-0.**
5. Maintenance Payable. Presented by Mark Tanner, Facilities Manager. Approval is sought for payment of a new heat pump in the new wood shop (due to relocation this was needed – it will be moved to the new building when constructed). In response to a question by Commissioner Shafer to clarify, Mr. Tanner advised the equipment will move to the new building once constructed. In addition, this action covers a pump repair in the Sam Cook building (Hermiston). **Commissioner Shafer moved to approve payment to Murphy's Heating & Air in the amount of \$6,825. Seconded by Commissioner Dorrn. Carried, 3-0.**
6. Maintenance Payable. Presented by Mark Tanner, Facilities Manager. Approval is sought for payment of a \$5,028.66 for chiller repairs at the courthouse. **Commissioner Dorrn moved to approve payment to HMS Commercial Service, Inc. in the amount of \$5,028.66. Seconded by Commissioner Shafer. Carried, 3-0.**

7. BOPTA Appointments. Presented by Dan Lonai, Administrative Services Director. The annual appointments for the Board of Property Tax Appeals are before the Board. The proposed members served last year and are willing to serve for another year (Jerry Baker, William Elfering, and Christine Wallace). **Commissioner Shafer moved to adopt Order No. BCC2021-071. Seconded by Commissioner Dorran. Carried, 3-0.**
8. Notice Publication Newspaper. Presented by Mr. Olsen. As part of the annual tax foreclosure process, notice is published in a newspaper of general circulation in the county. The request is to publish in the East Oregonian. **Commissioner Shafer moved to adopt Order No. TX2021-06. Seconded by Commissioner Dorran. Carried, 3-0.**
9. Livestock District. Presented by Mr. Olsen. This is for the potential creation of a new livestock district. A petition for a new district has been received. Two years ago, the law changed so formation is different. In the past, an election was required, which has now been eliminated. Now, a petition is received, a hearing is scheduled, notices are sent to property owners and to those within 500 feet of the proposed dist. Testimony at the public hearing can be made by anyone. If the Board approves of district formation, the petitioner goes to all the property owners to get signatures to authorize formation, which must be more than 50% to approve (plus 1 is a majority). It is by property owners, not based on the amount of land. In addition, the general law is open range, so anyone who owns livestock can roam. In a district, certain livestock must be fenced in by the livestock owner. In open range the property owner must fence to keep livestock out.

Today's action: the county received a petition to form the Meacham East Livestock District, which meets the statutory requirements. The area is about 2,000 acres, over 4 sections. There are not many large parcels so there are a lot of property owners to be notified. A public hearing on the proposed district is to be set (proposed to be held 10/21/21). Notices of the hearing will be sent to property owners in the proposed district, and also those within 500 feet of it. **Commissioner Shafer moved to adopt Order No. BCC2021-072. Seconded by Commissioner Dorran. Carried, 3-0.**

10. Board Meeting Schedule. Mr. Olsen presented. Due to the AOC annual conference, the second board meeting in November will not have a quorum. The proposal is to move the meeting to the following Tuesday (November 23) prior to Thanksgiving. **Commissioner Dorran moved to reschedule the November 17 meeting to November 23. Seconded by Commissioner Shafer. Carried, 3-0.**
11. Regional Homeless Shelter. Presented by Commissioner Dorran. Throughout the county, issues of homelessness have been dealt with by communities. West end is working with Umatilla County in conjunction with a group called Stepping Stones. This concept would consolidate, on a temporary basis, different proposals and grants available including modular units (with \$1 million funding from the state). This approach is as a group looking for available property for the upcoming winter and needs for warming shelter(s). This is to authorize moving forward with a location off of Highway 395 N, between Bensel and Lind Roads, in the UGB of the City of Umatilla. A conditional use permit could be needed for up to two acres on a temporary basis. There currently is electricity available. In response to a question from Commissioner Shafer about water/sewer, Commissioner Dorran advised a temporary option for the sewage portion would be fill and pump where trucks would periodically haul waste to dump at the City of Umatilla. In addition, fencing would be put in. More discussion about proposed area, in proximity to pit/crushing activities in the remainder of that property (18 acres).

Chair Murdock added information about the Promise Inn project (housing) in Pendleton. A homeless commission in east county indicated some homeless are interested in temporary/transitional housing, but others are only interested in a warming shelter when conditions require it. Needs are not generic throughout the county.

Commissioner Dorran advised a couple of different legal cases before the 9th Circuit Court of Appeals may affect the ability of municipalities to use shelters outside of the city. In our case, this property is county-owned, thus the possibly of regional (vs. individual community). The Supreme Court is to rule/give direction regarding sharing of facilities. Mr. Olsen advised today's discussion is to address the housing situation, not to address municipalities trying to prevent folks sleeping in public areas. That is not really a county issue. This would be for alternative shelter. Commissioner Dorran commented on the overwhelming situation and need to take small bites. Chair Murdock added, for the record, when discussing homeless shelters, we usually only address substance abuse & mental health into that we should add general health.

Commissioner Dorran moved to authorize moving forward with discussions with municipalities to identify a temporary facility on the identified two acres of county property in Umatilla's UGB. Seconded by Commissioner Shafer. Carried, 3-0.

12. Post-Retirement Employment. Mr. Olsen presented for Dale Primmer, Community Corrections Director. This is request is to approve a community corrections employee to retire, then come back as post-retirement temporary employee under county personnel policies with restrictions and with benefits and salary consistent with the current position. **Commissioner Shafer moved to approve. Seconded by Commissioner Dorran.** In addition, at some point, he would like discussion of this process – it's confusing to him. **Carried, 3-0.**
13. Collective Bargaining Agreement Ratification. Presented by Mr. Olsen. This is to ratify the negotiated 3-year union contract with the AFSCME Local 1393 for the Public Works Department, which has been ratified by members. It is a 4% COLA effective 7/1/21 and also 3% and 3% adjustments for the following two years. It also includes an increase to health HRA, boot allowance, and a change in the calculation method for longevity pay. **Commissioner Dorran moved to approve a 3-year contract with AFSCME Road Department Local 1393. Seconded by Commissioner Shafer. Carried, 3-0.**
14. Letter of Agreement. Presented by Mr. Olsen. The county and AFSCME have discussed placement of four positions within the Local 1393 (Public Works) bargaining unit and agreed to a Letter of Agreement adjusting the placement of these classifications. **Commissioner Dorran moved to approve the attached LOA between the County and AFSCME Local 1393. Seconded by Commissioner Shafer. (The effective date is 7/1/21.) Carried, 3-0.**
15. Exempt Salary Schedule. Presented by Mr. Olsen. This is to update the 2021-22 COLA to coincide with 4% increase plus longevity for exempt and administrative salary schedule only. Commissioner Shafer clarified this doesn't include elected officials. **Commissioner Shafer moved to approve COLA at 4% and longevity at + ½% each year for years '21-'25 (calculation method). Seconded by Commissioner Dorran. Carried, 3-0.**
16. Public Works Organization. Presented by Tom Fellows, Public Works Director. For some time, he has been working on a reorganization plan for the department. Issues became evident (no back-up at administrative level and inability to cross-train) with no succession planning. Years ago, to save money, a decision was made to not fill upper tier positions. With the help of H.R., he revisited work on a plan which would add potential for two positions – assistant director and operational supervisor (job description to be developed). Commissioner Dorran appreciated the work put in, noting reorganization of this department is necessary to continue with goals. **Commissioner Dorran moved to approve the new department organization chart, the assistant director position at Range 34, and the operations supervisor position at Range 30. Seconded by Commissioner Shafer. Carried, 3-0.**

Chair Murdock noted commissioners have supported the intent to H.R. to work on succession planning county-wide, reaffirming the fact succession planning as a priority.

Commissioner Reports

Commissioner Dorran – Rivers Democracy Act – by Senator Wyden is to add water areas to the Wild and Scenic Rivers Act. A town hall was held and, although Umatilla County doesn't have a lot of river miles, what we do have could be impacted (i.e. Harris Park area has several pieces of private property, and BLM also has property there). This act would have a big impact/hinderance on various entities with concerns of this action. He has major concern about Harris Park being impacted by this. Further discussion is needed.

Commissioner Shafer is also concerned. And, with Senator Wyden's letter stating private property wouldn't be affected, this is opposite to that message. Commissioner Dorran agreed, pointing out that is untrue – private property and interpretation are directly impacted.

Commissioner Murdock noted that, historically and previously, the liaison commissioner to the Planning department handles land use/public hearings; he wants to go back to that practice. Agreed.

Executive Session (pursuant to ORS 192.660(2)(a,b,h) was to be held in Room 121 or 114.

The meeting recessed at 10:15 a.m. Chair Murdock noted any action would come back on the record in regular session.

Chair Murdock called the regular meeting back on record and reconvened at 11:12 a.m. in Room 130.

At the recommendation of H.R. and County Counsel with regard to the Governor's order regarding vaccinations, **Commissioner Murdock moved to follow the Governor's vaccination mandates in order to protect the best interest of the county, respecting his fiduciary duty to the county and to his oath of office. Commissioner Dorran seconded. Commissioner Dorran moved to amend motion to make clear this is a narrow interpretation to comply with the Governor's and OHA's rules/laws, specifically in how to define and apply education and the medical field, and not to broaden definitions as applicable in the county. Commissioner Murdock agreed.** Commissioner Shafer noted he will be a no vote when the time comes. He has hard time forcing someone to take vaccine. He understands the fiduciary duty, but he can't get on board to require getting a vaccine. Commissioner Dorran will vote in favor; he has county interest first, and knows fiduciary duties are huge with all involved. He appreciates all comments of Commissioner Shafer and his conviction would be to vote against on a personal basis, but as county commissioner, he knows it may not be accepted by a wide swath. However, he was elected to make hard decisions. He wants to make it clear, this action is based on the Governor's order, and if the order expires or is stayed, then mandates and requirements go away. If there's any place for this Board to get on-board in joining in legal arguments, this could be revisited. However, at this time, he will be a yes vote.

Chair Murdock, for the record to show: should any of (legal) challenges prevail, the county follow? Mr. Olsen responded, yes. If (Governor's order) is invalid or stayed, the county would follow suit and vaccination would not be required. Chair Murdock asked, so the county wouldn't go beyond law/rule within our interpretation? Mr. Olsen, correct. **Vote: Commissioner Murdock and Commissioner Dorran, yes. Commissioner Shafer, no. Carried, 2-1.**

The meeting adjourned at 11:19 a.m.

Respectfully submitted,

Melinda Slatt

Executive Secretary, Umatilla County Board of Commissioners