

MALHEUR COUNTY COURT MINUTES

JULY 27, 2016

The Malheur County Court met with Judge Dan Joyce presiding with Commissioner Don Hodge and Commissioner Larry Wilson present. Staff present was Administrative Officer Lorinda DuBois and Planner Alvin Scott.

Also present was Larry Meyer of the Argus Observer and John Braese of the Malheur Enterprise.

ECONOMIC DEVELOPMENT UPDATE

Economic Development Director Greg Smith, Assistant Phil Scheuers, and Melisa Drugge from Business Oregon met with the Court. Mr. Smith gave a brief update of economic development activities. Work continues on the Juntura Cutoff Road project; conversations continue with Union Pacific and shippers/packers regarding a potential reload facility. Mr. Smith noted that he also serves in the Oregon Legislature and serves as a member of the Transportation Committee that will be looking at transportation projects in a potential transportation package (Representative Bentz is also on the committee). Eastern Oregon Pallet Company has entered into a contract with EP Minerals. Economic Development staff continues to work with various companies on financing and refinancing packages. Staff has met several times with two major companies in the county that are looking at a significant expansion. Work continues with the solar companies. Project Violet continues to explore Malheur County; however, the company has made it clear that should IP (Initiative Petition) 28 pass in the November election they will not locate in Oregon. Staff is working with Jordan Valley Ambulance on financing tools for their project to construct/upgrade their facility. Staff is also working with a company in Ontario that is working on a City of Ontario Revolving Loan Fund application. Mr. Smith noted that he anticipates hiring a student office staff member this fall. Also, according to Secretary of State's records, 19 new companies were formed in Malheur County in the last month.

Ms. Drugge noted that the negotiations and contracts for the Juntura Cutoff Road project are nearing completion.

Mr. Smith encouraged the Court members to visit with Representative Bentz about his proposed Economic Incentive Zone legislation.

Mr. Braese and Mr. Scott left the meeting.

ROAD DEPARTMENT

Road Supervisor Richard Moulton met with the Court and presented a cooperative assistance agreement for their consideration. Commissioner Hodge moved to approve Oregon Public Works Emergency Response Cooperative Assistance Agreement with ODOT (Oregon Department of Transportation). Commissioner Wilson seconded and the motion passed unanimously. This is a mutual aid agreement that enables public works agencies to support each other during an emergency; provides a mechanism for immediate response to the requesting agency when the responding agency determines it can provide needed resources and expertise;

and sets up the documentation needed to seek maximum reimbursement possible from federal agencies. See instrument #[2016-2480](#)

Mr. Moulton noted he is currently working on several incidents involving landowners allowing irrigation water to discharge onto County roads.

The Court also briefly discussed the Wilcox gravel pit with Mr. Moulton. Mr. Moulton said the sales price for the pit is \$150,000; Mr. Moulton is gathering additional information on the property and will visit further with the Court at a later date.

COURT MINUTES

Commissioner Wilson moved to approve Court Minutes of July 20, 2016 as written. Commissioner Hodge seconded and the motion passed unanimously.

PANIC ALARM SYSTEM QUOTE

Commissioner Hodge moved to accept the quote from Integrated Security Resources Inc. for the wireless panic alarm system for the County offices within the courthouse (\$9,171.20). Commissioner Wilson seconded and the motion passed unanimously.

OLCC LIQUOR LICENSE APPLICATIONS

Commissioner Hodge moved to approve Oregon Liquor Control Commission (OLCC) Liquor License Application to Black Palomino LLC/R. Heather Holtry for the facility located at 5586 Hwy 95 Spur, Ontario; and OLCC Liquor License Application to C. Stein Inc/CSB Craig Stein Beverage/Scott Norell for the facility located at 492 Columbia Avenue, Nyssa. Commissioner Wilson seconded and the motion passed unanimously.

CONTRACT - ANI-CARE

Commissioner Hodge moved to approve Contract with Ani-Care Animal Shelter Inc. Judge Joyce seconded and the motion passed. Commissioner Wilson abstained. Ani-care will provide facilities for the maintenance, care and disposal according to law of abandoned or stray canines located within the confines of Malheur County. See instrument #[2016-2481](#)

SUPPLEMENTAL BUDGET

Commissioner Hodge moved to approve Supplemental Budget Resolution R16-22: In the Matter of Fiscal Year 2016/2017 Supplemental Budget by Resolution Under Local Budget Law ORS (Oregon Revised Statute) 294.471. Commissioner Wilson seconded and the motion passed unanimously. The purpose of the supplemental budget is allocate the spending of March of Dimes grant funds, in the amount of \$6,000, which were received but not anticipated when the adopted budget was prepared. See instrument #[2016-2482](#)

ORDER FOR DE NOVO HEARING - PLANNING COMMISSION MATTER/BENCH-SEUBERT

County Counsel Stephanie Williams met with the Court and briefed them on an appeal of a Planning Commission's decision that will come before the Court.

Background of the matter is: Planning Department File #2016-05-001. The matter is a lot line adjustment (property/boundary line adjustment) between Kelly Bench and Seubert Excavator. The Bench property has a Goal 5 Inventory Site (approximately 9 acres); the site was added to the County's Goal 5 Inventory several years ago. In 2002, a conditional use permit to mine the site was applied for and it was denied by the Planning Commission and County Court. Mr. Seubert now wants to buy the 9 acre site, plus some additional acreage (total 14) from Mr. Bench via a property line adjustment. The Planning Director approved the property line adjustment in May 2016 as an administrative decision. The decision of the Planning Director was appealed by 20 persons who were represented by attorney Martin Leuenberger at the Planning Commission meeting of June 23, 2016.

Some of the reasons for the appeal of the Planning Commission's decision include: The Planning Commission proceeded without a complete application form as devised and prescribed by the Planning Director. The Planning Commission accepted the proposed lot line adjustment deed from the Applicants/Owners and in turn provided it to the Appellants the day of the Planning Commission hearing; that the deed and other documents was a required part of the Application and it was the responsibility of the Applicants to make certain their application was complete well in advance of the hearing. At the Planning Commission hearing, Appellants requested a continuance to review the deed and any material contained in it. The Planning Commission indicated that as the deed was prepared by an attorney and a surveyor no further review was necessary; and the request for a continuance was denied.

Ms. Williams explained that ORS 197.763 states if a continuance is requested it shall be granted. Ms. Williams had visited with Mr. Leuenberger prior to the Planning Commission meeting and shared the ORS with him, but Mr. Leuenberger expressed his hesitancy to invoke the statute. The statute was not mentioned by Mr. Leuenberger at the Planning Commission hearing as the basis for the continuance. However, the Appellants appeal form cites the ORS. Ms. Williams explained to the Court that her recommendation is to hold the appeal hearing before the County Court as a *de novo* hearing rather than on the record. A *de novo* hearing will allow the appellants the opportunity to respond, testify, and present argument and information on the deed and other items referenced in their appeal.

Commissioner Wilson moved to approve Order GO-5-16, In the Matter of: Order for *de novo* Hearing Before the Malheur County Court on Appeal from Decision of Malheur County Planning Commission Granting Lot Line Adjustment between Bench (Assessor's Map 17S47 tax lot 600 ref. #6967) and Seubert (Assessor's Map 17S4719 tax lot 800 ref. #6948), Planning Department Case #2016-05-001; and Setting Date and Time for Appeal Hearing. Commissioner Hodge seconded and the motion passed unanimously. The hearing date is September 7, 2016 at 9:00 a.m. See instrument #[2016-2483](#)

COURT ADJOURNMENT

Court was adjourned.

Clerks Note: Personal Services Contract between Malheur County and Helion Software, Inc. See instrument #[2016-2619](#)