

**MALHEUR COUNTY COURT MINUTES**  
**November 29, 2023**

The regularly scheduled meeting of the County Court was called to order by Judge Dan Joyce at 9:00 a.m. in the County Court Office of the Malheur County Courthouse with Commissioner Ron Jacobs and Commissioner Jim Mendiola present. Staff present was Administrative Officer Lorinda DuBois and Economic Development Director Taylor Rembowski. Members of the media, public and staff had the opportunity to join the meeting electronically or in-person. Notice of the meeting was posted on the County website, Courthouse bulletin board and emailed to the Argus Observer, Malheur Enterprise, and those persons who have requested notice. The meeting was audio recorded. The agenda is recorded as instrument # 2023-3361

**SECOND PUBLIC HEARING - ORDINANCE NO. 234**

Present for the second public hearing for consideration of Ordinance No. 234: An Ordinance for a Post Acknowledgment Plan Amendment to Include Tax Lots 200 and 700 Map 17S47E19 of the Malheur County Assessor's Office as a Significant Aggregate Site to Malheur County's Comprehensive Plan, Goal 5, Mineral and Aggregate Inventory were: Planner/Environmental Health Director Eric Evans, Planning Manager Tatiana Burgess, Nick Seubert - Applicant Seubert Excavators Inc. representative, and public member Nancy Riley; Planning Department File No. 2023-08-002. Notice of the hearing was published in the Argus Observer.

Judge Joyce opened the hearing and asked for any abstentions, potential or actual conflicts of interest from the members of the Court and asked for any ex parte communications or site visits to be divulged. There were none.

Judge Joyce asked for any objections to the jurisdiction or any objections to any member of the County Court hearing the matter. There were none.

Judge Joyce stated: Failure to raise an issue may preclude raising it before LUBA (Land Use Board of Appeals). Failure to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the County Court to respond to the issue may preclude an action for damages in Circuit Court.

Judge Joyce asked for a staff report.

Mr. Evans explained that the Planning Commission approved the conditional use permit for aggregate mining in September. This hearing is to add the site to the Goal 5 Inventory and the property has met the threshold for quality, quantity, and location requirements and as part of the protections for this aggregate resource a waiver of remonstrance will be required for any new proposed conflicting uses within a 1500-foot impact area.

Judge Joyce asked for proponent testimony; there was none. Judge Joyce asked for opponent testimony; there was none. Judge Joyce asked for public agency testimony; there was none. Judge Joyce asked for a staff summary; Mr. Evans had nothing further to add.

Commissioner Jacobs noted that the action is in conjunction and coordination with the County's Comprehensive Plan, Goal 5.

Nancy Riley explained that she owns the neighboring property which includes a cell phone tower and has concerns that the gravel operation will impact the 20-year cell tower lease. Mr. Evans suggested Ms. Riley visit with Seuberts directly and explained that the cell tower is not a conflicting use with the aggregate site.

Judge Joyce closed the hearing.

Commissioner Jacobs moved to approve Ordinance No. 234: An Ordinance for a Post Acknowledgment Plan Amendment to Include Tax Lots 200 and 700 Map 17S47E19 of the Malheur County Assessor's Office as a Significant Aggregate Site to Malheur County's Comprehensive Plan, Goal 5, Mineral and Aggregate Inventory. Commissioner Mendiola seconded and the motion passed unanimously. See instrument # 2023-3346

#### **CROSSING PERMIT**

Commissioner Jacobs moved to approve Crossing Permit #35-23 to Idaho Power Company for line maintenance on Hyline Road #911. Commissioner Mendiola seconded and the motion passed unanimously. The original permit will be kept on file at the Road Department.

#### **MCDC AGREEMENT - AMENDMENT**

Malheur County Development Corporation (MCDC) Executive Director Shawna Peterson presented an amendment to the funding agreement; the amendment revises the third-party professional services language to include and other contracts for goods and/or professional services, to hire a consultant, realtor, developer, appraiser, engineer, or grant writer for MCDC and TVRC (Treasure valley Reload Center). MCDC will hire Axiom Development for business plan development assistance. Commissioner Jacobs moved to approve First Amendment to Agreement for Funding between Malheur County and Malheur County Development Corporation Recorded with the Malheur County Clerk as Instrument Number 2023-1034 Commissioner Mendiola seconded and the motion passed unanimously.

#### **MALHEUR COUNTY DEVELOPMENT CORPORATION (MCDC) BOARD**

Commissioner Jacobs moved to appoint Mike Walker to the Malheur County Development Corporation board, as recommended by MCDC. Commissioner seconded and the motion passed unanimously.

#### **COURT MINUTES**

Commissioner Jacobs moved to approve Court Minutes of November 8, 2023 as written. Commissioner Mendiola seconded and the motion passed unanimously.

#### **FUNDS TRANSFER RESOLUTION**

Commissioner Jacobs moved to approve Resolution R23-32: In the Matter of Fund Transfers Under Local Budget Law ORS 294.463. Commissioner Mendiola seconded and the motion passed

unanimously. Funds are transferred within the Economic Development Fund. See instrument # 2023-3362

### **SUPPLEMENTAL BUDGET RESOLUTION**

Commissioner Jacobs moved to approve Supplemental Budget Resolution R23-33: In the Matter of Fiscal Year 2023/2024 Supplemental Budget by Resolution Under Local Budget Law ORS (Oregon Revised Statutes) 294.471. Commissioner Mendiola seconded and the motion passed unanimously. The purpose of the supplemental budget is to allocate additional ODOT (Oregon Department of Transportation) funds in the Special Transportation Fund that were not anticipated when the budget was adopted - these are ODOT training reimbursement funds that will be passed on to Malheur Council on Aging and Community Services; and to allocate additional transfer funds from the Economic Development Fund in the Reload/Industrial Park Project fund - these funds are for the payment on the Business Oregon loan. See instrument # 2023-3363

### **NACO DUES**

Commissioner Jacobs moved to approve payment of National Association of Counties (NACo) membership dues for 2024 in the amount of \$626.00 Commissioner Mendiola seconded and the motion passed unanimously.

### **IGA #180022 – AMENDMENT**

Commissioner Mendiola moved to approve Fourth Amendment to Oregon Health Authority 2023-2025 Intergovernmental Agreement for the Financing of Public Health Services, Agreement #180022 Commissioner Jacobs seconded and the motion passed unanimously. Funding is added for Program Element 01-09 COVID-19 Active Monitoring - ELC (Early Learning Council).

### **IGA #173143 - AMENDMENT**

Commissioner Jacobs moved to approve Twelfth Amendment to Oregon Health Authority 2022 Intergovernmental Agreement for the Financing of Community Mental Health, Addition Treatment, Recovery, & Prevention, and Problem Gambling Services #173143. Commissioner Mendiola seconded and the motion passed unanimously. Non-OHP Community and Residential Assistance funds are removed.

### **EXECUTIVE SESSION**

Executive Session was called in accordance with ORS 192.660(2)(e) - Real Property Transactions with Judge Joyce presiding and Commissioner Jacobs and Commissioner Mendiola present. Also present were Economic Development Director Taylor Rembowski, County Counsel Stephanie Williams, Administrative Officer Lorinda DuBois, Maintenance Supervisor Don Dalton, Sheriff Travis Johnson, and Leslie Thompson with the Argus Observer. No decisions were made during or following the session.

### **COURT ADJOURNMENT**

Judge Joyce adjourned the meeting.