

## **MALHEUR COUNTY COURT MINUTES**

**January 6, 2021**

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 Don Hodge and Commissioner Ron Jacobs present. Staff present was Administrative Officer Lorinda DuBois. Various members of the public, media and staff were present electronically. Notice of the meeting was posted on the County website 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 # 2021-0056

### **COURT MINUTES**

Judge Joyce moved to approve Court Minutes of December 30, 2020 as written. Commissioner Hodge seconded and the motion passed.

### **AUTHORIZATION OF REFUNDS**

Commissioner Hodge moved to approve Resolution R21-01: In the Matter of Authorization of Refunds by Tax Collector. Commissioner Jacobs seconded and the motion passed unanimously. See instrument # 2021-0060

### **JUSTICE OF THE PEACE PRO TEMPORE**

Commissioner Jacobs moved to approve Order GO-01-21 Appointing Justice of the Peace Pro Tempore for Malheur County Justice Court During the 2021 Calendar Year. Commissioner Hodge seconded and the motion passed unanimously. See instrument # 2021-0058

### **INVESTING FUNDS**

Commissioner Hodge moved to approve Order GO-02-21: In the Matter of Investing Any Sinking Fund, Bond Fund or Surplus Funds. Commissioner Jacobs seconded and the motion passed unanimously. See instrument # 2021-0059

### **BUDGET OFFICER**

Commissioner Jacobs moved to appoint Administrative Officer Lorinda DuBois as Budget Officer for FY 2021-22. Commissioner Hodge seconded and the motion passed unanimously.

### **SUPPLEMENTAL BUDGET RESOLUTION**

Commissioner Jacobs moved to approve Supplemental Budget Resolution R21-03: In the Matter of Fiscal Year 2020/2021 Supplemental Budget by Resolution Under Local Budget Law ORS 294.471. Commissioner Hodge seconded and the motion passed unanimously. The purpose of the supplemental budget is to allocate YDC (Youth Development Council) Flex grant funds in the Juvenile budget that were not anticipated when the adopted budget was prepared; the funds are to be used for the goals as stated in the YDC plan. See instrument # 2021-0061

## **AUDIT**

Jordan Zwygart of Millington Zwygart, Certified Public Accountants, met with the Court and reviewed the County's 2019-2020 Audit. Millington Zwygart audited the cash basis financial statements of the government activities, the business-type activities, each major fund, and the aggregate remaining fund information of Malheur County for the year ended June 30, 2020, and the related notes to the financial statements. The Boat License Fund and Juvenile Crime Prevention Fund had expenditures over their appropriations. See instrument #2021-0065 The audit will also be placed on the County website.

## **PUBLIC HEARING - SUPPLEMENTAL BUDGET**

Judge Joyce opened the public hearing for consideration of supplemental budget Resolution R21-02. Notice of the hearing was published in the Argus Observer. A public hearing was required as the supplemental budget will adjust the current budget fund by 10% or more of the expenditures of that fund. No public comments were received. The hearing was closed. Commissioner Hodge moved to approve Resolution R21-02: In the Matter of Fiscal Year 2020/2021 Supplemental Budget by Resolution Under Local Budget Law ORS 294.471. Commissioner Jacobs seconded and the motion passed unanimously. The purpose of the supplemental budget is to allocate Malheur County Rural Housing Initiative grant funds in the Planning/Zoning budget that were not anticipated when the adopted budget was prepared; the funds are to be used for contracting services of a Land Use Consultant and Attorney to assist in updating the Comprehensive Plan and Ordinances. See instrument # 2021-0057

## **TREASURE VALLEY RELOAD CENTER (TVRC)**

Greg Smith met with the Court. Mr. Smith recapped the TVRC project. Mr. Smith explained that Commissioner Larry Wilson approached him with the concept of the project several years ago and since that time \$26 million has been procured from the State for the development of a reload facility. The development of a reload facility is a very complex project.

Milestones up to now include:

- Project site selection. Five sites were initially reviewed; the primary considerations were: a minimum of one mile of Union Pacific (UP) mainline track adjacent to the property; the property needed to be as flat as possible in order to minimize required excavation work; residential development would not be taking place near the site in the future 20 years; property price, utilities, and the ability to rezone the land to industrial use.
- A preliminary project plan was then completed and approved by a licensed engineer; the plan also included an updated project schedule and cost estimate, which included investigation and preparation of required permits and related functions.
- Development of financial statements based upon an operating agreement. Approximately 65 acres was needed for the reload facility project. Additional acreage was acquired for additional future industrial development.

- Negotiations took place with Union Pacific to achieve 30% rail design that demonstrates the exact milepost of the proposed future rail switches. (This was a major milestone to accomplish.)
- Next was 100% design submittal of the rail engineering plan, including a simplified layout of the industrial tract, which will become a legal document attached to the industry tract agreement; an updated rail construction schedule and cost estimates.
- Next, final project plans had to be approved by a licensed engineer, including an updated project schedule and estimate.
- Negotiate and complete an industry tract agreement outlining the construction use, maintenance, operation, and ownership of the industry tract; and a contractors right of entry agreement. The hazardous materials agreement took some time to work through, but was deemed necessary as it was important to ensure that agricultural hazardous materials (such as fertilizer) could be accommodated.
- An easement issue with a large company was also worked through. An agreement with Nutrien to demolish the rendering plant in the Union Pacific right of way was reached and is being executed.
- Negotiations of an agreement between MCDC (Malheur County Development Corporation) and the terminal operator (Americold)

The Oregon Transportation Commission (OTC) wants to know if all civil engineering and rail engineering is complete, will UP serve the project, and is an operator in place. Additionally, a consulting group, the Tioga Group, had to be shown that the project financially made sense. Mr. Smith shared the following excerpt from recent Americold confidential correspondence: Our supply chain solution group is on target to complete the analysis and deliver new (inaudible) by January 15. The original concept and proposal, as reviewed by Tioga partners for the Oregon Department of Transportation clearly demonstrates the viability of the project. Our expectation is to deliver additional upside and efficiencies and customer service for the Oregon Treasure Valley shippers. This information will be submitted to ODOT (Oregon Department of Transportation) demonstrating that Americold is onboard to service the reload facility. The OTC meets January 21st and will make a recommendation regarding releasing construction funds for the project.

Mr. Smith explained that a non-binding agreement of some type (MOU (Memorandum of Understanding), resolution, letter of agreement) is needed that effectively says that Americold, Treasure Valley Onion Shippers LLC, MCDC, and Malheur County all agree to work in each other's mutual interest to advance the reload facility project. Mr. Smith requested the Court authorize County Counsel to work on the agreement on behalf of the County, along with MCDC and Americold's attorneys; the agreement is needed for the January 21st OTC meeting. Mr. Smith explained the draft MOU he had sent to staff was simply a very rough draft and would require modifications moving forward.

Public member Mike Walker inquired if the OTC would approve the release of funds without the tract agreement and operating agreement being completed; Mr. Smith explained that the milestones that the Oregon Department of Transportation has asked to be completed have been completed.

There is a sequential process to an industry tract agreement and the final piece, prior to UP signing off, is UP's engineers must complete the switch design work at an expense of about \$800,000; UP's process must be followed and ODOT understands that the agreement will be signed off once that switch design work is completed. Americold and the Treasure Valley Onion Shippers are dealing with a commodity that fluctuates and changes on a daily basis; the shippers have committed to a level of volume sufficient to operate the facility; a final agreement will not be made until the final costs are known.

The Court will consider the non-binding agreement after drafted by legal counsel.

**COURT ADJOURNMENT**

The meeting was adjourned.