

**MALHEUR COUNTY COURT MINUTES**  
**March 8, 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. Members of the media, public and staff had the opportunity to join the meeting electronically or in-person. Present in the meeting room was public member Mike Walker. 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 # 2023-615

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

Brad Baird and Malheur County Development Corporation (MCDC) board chair Grant Kitamura met with the Court.

Commissioner Jacobs: So, I guess we might make a point that, you know, we had some questions about the material that's going to be used for fill for Track C and the rail portion of it, so I think Brad's here to answer those questions.

Brad Baird: Yeah, any questions you may have. Our goal today, obviously, is to hopefully get this agreement approved so we can get R6 out there working on Track C and just wanted to clarify, I know there's some concern that, and the agreement covers that, not to use any imported material, you know, just use onsite material. And we're fine with that requirement because we're confident we can do so. To give an example, we've used a lot of onsite material out there as fill, when conditions are right and the moistures get to the right level. There's plenty of onsite fill in parts of the rail line above the water. We didn't use import for everything, obviously, but we did use the import to get out of the water. A lot of the fill in the rail lines that's above the water come from onsite. And I know there was some question about how do you get it certified. Well, the way it works is, let's say you sign this and the contractor goes out there, the first thing we'll do is we've got different stockpiles of material for moving things around onsite, and we'll go out and check every stockpile in every area with a backhoe, dig test pits and start looking at it, and maybe even run some percent moistures to where we find the material that looks the best, and then we'll take that, a good sample of that, and you send it to an independent lab. They run what's called a proctor on it, which gives you a curve for your maximum density and optimal moisture, and then that's what we test against when you actually take it, place it and compact it. The testing outfit comes out and takes a nuclear density test of it, compares it to the proctor, and says, yep, you're at 95% maximum or 98, you know, and the specs have the range that they have to get to call it compacted. So, you can't do that test until you pick the material, because all the material varies a little, some will have a little more silt, a little less silt, (inaudible) plays. So, each one you run a proctor on each type of material that you use and hope for consistency. Obviously if you use six or seven different types you'll have to run six or seven tests, because you've got to have a proctor for each type you use. So that's how the project's gone, you run around and identify the source of material onsite, test it, and then get it certified that it's good. And then once you start using it, you test that

against the certification test to make sure you're at a certain density, and that's what we've already done, lots, there's all kinds of testing results of this working. So that's why we were fine with the, we know that there's onsite dirt we can use. The only risk is if it's too wet, you know, like it's been raining a lot this winter and maybe we'll have to dry some out. Sometimes you'll take material and you'll disk it a little bit to dry it out and get the moistures down to where it's optimal; we're confident we can make it work. So, we're ready to go. But obviously there hasn't been any testing done yet, because we haven't identified which pot of dirt we're going to use.

Commissioner Jacobs: So, let me understand – you take samples into Atlas to start with, and then they come out, eventually come out, and do some compaction tests, after you start laying it.

Brad Baird: Yeah, every lift.

Commissioner Jacobs: And you say a lift, how much is a lift?

Brad Baird: I'd have to go back and read the specs; usually it's 8 to 10 inches or 6 to 10, it depends on the material, sometimes maybe a foot if they can demonstrate compaction properly. You get too thick and you can't actually get the bottom part of that lift compacted, so, which contractors love to go two-foot lifts, and it's like, no, that's not going to work. But yeah, they'll place a lift that's compactible, and then every bit of it's tested, obviously we can't have the rail lines with possible sinking spots, so it's all tested.

Commissioner Mendiola: They'll put a lift in to 12 inches and it'll compact down to 6 or 7

Multiple talking

Brad Baird: Yeah, and then it's tested and it meets specs and here comes the next lift, so that's exactly how it works.

Ontario City Manager Dan Cummings joined the meeting.

Commissioner Jacobs: And you described earlier to us that when RailWorks comes in and starts putting the lifts in for the tracks, actual the top part of it, then they come in and do compaction tests as well.

Brad Baird: Yeah. What happens is when R6 is done, before the RailWorks crew starts, you'll have the whole thing filled up. The membrane will be down, and the sub ballast will be down, which is the stuff that looks like three quarter minus gravel. And so, when RailWorks shows up, it looks like a gravel strip, you know, it's already up there. RailWorks brings in the ballast, the larger gap graded material for drainage, and, but yeah, usually at that point you proof roll the whole thing with a huge loaded dump truck or a water truck, something really heavy. They'll walk all along and test it, that's a good way to test it and see

Commissioner Mendiola: And they'll bring the big ballast, the finished ballast in?

Brad Baird: Yeah, that's in RailWorks contract; they do the finished ballast and then build the rail.

Commissioner Mendiola: I see.

Commissioner Jacobs: So R6 puts the membrane down on top of the fill before they start the three quarters minus.

Brad Baird: Yep.

Commissioner Jacobs: Okay.

Brad Baird: And so, when R6 is done and they walk away, it'll be all the way up to grade except for the ballast and

Commissioner Jacobs: And the rail

Brad Baird: Yeah. And everything's certified and tested, just like we've done with everything else. And hopefully it didn't rain all over the site all winter; it's looking pretty good, because the R6 guys, when they're running around they'll swing by and take a look and look at it.

Commissioner Jacobs: Some moisture is good, too much is

Brad Baird: Yeah, well it's got to be right in there at a certain range to compact right, so yeah, you're right, you need some. And obviously, if it was very dry they would be out there placing the dirt and adding the water to it to get it to compact.

Commissioner Mendiola: If it's too wet it'll start pumping.

Brad Baird: Right, so you dance around that optimal point and it's always a challenge, but we've had good results using onsite material thus far so we're sure we can get it

Commissioner Mendiola: That's good to know.

Brad Baird: Yeah.

Commissioner Jacobs: Well, and I was looking at some of the aerial photos of the site, and there is a lot of area that we can draw from for this material, so I can see that there should be plenty of material there.

Ontario City Mayor Deborah Folden joined the meeting.

Brad Baird: It's not a whole lot of material, but we've got lots of places

Commissioner Jacobs: And I've actually been out on the site as well and walked around a lot

Brad Baird: Good. The site actually looks pretty good right now. Anyway, hopefully that answers your questions and we can get going on it.

Judge Joyce: Next steps?

Commissioner Jacobs moved to approve First Addendum to Agreement for Funding between Malheur County and Malheur County Development Corporation Recorded with the Malheur County Clerk as Instrument Number 2022-4094. Commissioner Mendiola seconded and the motion passed unanimously. See instrument # 2023-618

Vale City Mayor Tom Vialpando joined the meeting.

### **CROSSING PERMIT**

Commissioner Mendiola moved to approve Crossing Permit #11-23 to Idaho Power Company for replacement of a pole and transformer on Ivy Road #918. Commissioner Jacobs seconded and the motion passed unanimously. The original permit will be kept on file at the Road Department.

### **COURT MINUTES**

Commissioner Jacobs moved to approve Court Minutes of March 1, 2023 as written. Commissioner Mendiola seconded and the motion passed unanimously.

### **OWYHEE IRRIGATION DISTRICT**

Commissioner Jacobs moved to approve signing of a letter of support for funding assistance for Owyhee Irrigation District (OID) to upgrade efficiencies at their two Snake River pumping facilities, nunc pro tunc to March 1, 2023. Commissioner Mendiola seconded and the motion passed unanimously. See instrument # 2023-617

### **CONTRACT - NEY**

Commissioner Mendiola moved to approve Fifth Agreement for Temporary Environmental Health Specialist Services - Restaurant Inspections with Melissa Ney. Commissioner Jacobs seconded and the motion passed unanimously. Ms. Ney will perform inspections in Baker and Malheur Counties; the agreement expires June 30, 2023. See instrument # 2023-611

### **CHECK REGISTER**

Commissioner Jacobs moved to approve Accounts Payable Register for February 2023. Commissioner Mendiola seconded and the motion passed unanimously.

### **SUPPLEMENTAL BUDGET**

Commissioner Jacobs moved to approve Supplemental Budget Resolution R23-07: In the Matter of Fiscal Year 2022/2023 Supplemental Budget by Resolution Under Local Budget Law ORS 294.471. Commissioner Mendiola seconded and the motion passed unanimously. The purpose of the supplemental budget is to allocate additional Secretary of State funds (\$5,000) in the County Clerk budget that were not anticipated when the adopted budget was prepared - the funds are to be used for election equipment; and to allocate VOTE FEMA (Vaccine Operations Team Equity Federal Emergency Management Agency) reimbursement funds (\$302,193) from the Oregon Health Authority in the Health Department budget that were not anticipated when the adopted

budget was prepared - these funds will be put into County General Fund Contingency. Commissioner Mendiola seconded and the motion passed unanimously. See instrument #2023-616

### **ECONOMIC DEVELOPMENT DIRECTOR**

The Court acknowledged they had reviewed the job description for the vacant Economic Development Department Director and had no changes and requested the vacancy notice be advertised.

### **BUDGET COMMITTEE**

The Court is still seeking a member for the County budget committee.

### **HOUSING PRODUCTION ADVISORY COUNCIL**

Governor Kotek recently announced her appointments to the Housing Production Advisory Council (HPAC); Riley Hill was appointed to serve on the Council. The Court expressed appreciation for Mr. Hill's service on this Council.

### **COVID LEAVE POLICY**

Commissioner Jacobs moved to end the Temporary Malheur County COVID-19 Paid Leave Policy March 31, 2023. Commissioner Mendiola seconded and the motion passed unanimously.

### **DECLARING STATE OF EMERGENCY - HOMELESSNESS**

Lieutenant Rich Harriman met with the Court. Lt. Harriman read Resolution R23-08: In the Matter of Declaring a State of Emergency within Malheur County. Malheur County is in a state of emergency from an ever-increasing Homelessness epidemic, resulting in increased hazards to the homeless population from exposure to severe climate, theft, violence and exploitation, illness from unsanitary living conditions and mental health impacts. The general population potentially suffers from trespassing, increased waste and refuse accumulation, occupations of parks and public areas by the homeless and increased prowling and theft complaints. On January 10, 2023 Governor Kotek issued a State of Emergency for specific areas/counties for homelessness; other counties may be included by self-declaration provided they meet the following criteria: The unsheltered population in 2022 must be greater than 30 households; and the community has declared a local state of emergency related to homelessness; and, at least one of the following is true: unsheltered homelessness increased by 50% or more between 2017-2022, or, the rate of unsheltered homelessness in 2022 was 80% or greater. A local Point in Time (PIT) team recently audited Malheur County's homelessness situation and determined that Malheur County experienced a 12% increase of unsheltered homelessness between 2017-2022 and 83% of our homeless population is considered unsheltered. Commissioner Jacobs moved to approve the Resolution declaring a state of Emergency for Homelessness. See instrument # 2023-612 for the complete resolution.

Lt. Harriman answered questions from the Court members. It is unknown at this time what resources might be available if the Governor includes the County in the State Emergency Declaration (Executive Order 23-02).

Mayor Vialpando explained that HB (House Bill) 3115 (2021) becomes operative July 1, 2023; it is designed to ensure cities around the state are aligned with recent Federal rulings and encouraged a coordinated effort between the Cities and the County.

Mr. Cummings expressed support for the emergency declaration. Ontario has started its camping ordinance for TPM's (time, place and manner) - the Ad Hoc Committee's first meeting is this week and will review the draft ordinance.

Commissioner Jacobs noted the importance of having the Cities and County on the same page and making the State aware that homelessness is an issue in Eastern Oregon.

Lt. Harriman explained his position is funded by a grant and FEMA doesn't necessarily recognize homelessness as an emergency and as such wouldn't chair a local committee but would make himself available to the committee; Mayor Vialpando recommended that local community partners be included in such a committee (such as Lifeways and Community in Action).

Ms. DuBois left the meeting.

### **TEKNIAM - PRODUCT PRESENTATION**

Kevin Griffith and Andrew Heaton from Tekniam ([www.tekniam.com](http://www.tekniam.com)) met with the Court and provided information on their company's wireless solutions for remote areas. Tekniam offers a product that weighs about five pounds and takes about 10 watts and can connect to both cellular and Wi-Fi bands; it has three omnidirectional antennas and has backhaul jacks. Two different applications are available - law enforcement and rural broadband. Tekniam does not compete with local internet service providers; Tekniam sells equipment that extends a local providers service area. (Tekniam does have a couple of partners that can provide service if that is a need). Tekniam can also assist with grant writing efforts.

### **CAPITAL FUNDING REQUEST**

County Counsel Stephanie Williams reviewed the 2023-25 Capital Funding Request project information form for the Treasure Valley Reload Center; the County is requesting \$8,580,000 from the legislature. The project continues to experience inflation costs and had a substantial overrun in rock to fill the wetlands. Commissioner Jacobs move to submit the 2023-25 Capital Funding Request. Commissioner Mendiola seconded and the motion passed unanimously. A cover letter will be drafted for Judge Joyce's signature to submit with the form. See instrument # 2023-631 for the cover letter and Request form.

### **PUBLIC COMMENTS**

Mike Walker commented he thought the Court was doing the right thing in asking the legislature for approximately \$8.6 million and keeping in compliance with the lease agreement between MCDC and Americold and giving the reload facility every possible chance to succeed.

### **COURT ADJOURNMENT**

Judge Joyce adjourned the meeting.

\*\* Intergovernmental Agreement # 1447 between the Oregon Department of Corrections and Malheur County Health Department and Amendments #1 through #8 to provide Hepatitis B immunizations to Snake River Correctional Institution personnel recorded as instrument # 2023-0633