

MALHEUR COUNTY COURT MINUTES

June 7, 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 Road Supervisor Dave Tiffany and Administrative Officer Lorinda DuBois. Public present were: Brad Williams and his attorney Brian Sheets, Martin Joyce, and Coralee Williams. 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 # 2023-1696

FIRST PUBLIC HEARING - ORDINANCE NO. 232

Judge Joyce opened the first public hearing for consideration of Ordinance No. 232: An Ordinance of Malheur County, Oregon Adding Title 3 Chapter 16 to the Malheur County Code Establishing Use of County Property for Camping. Notice of the hearing was published in the Argus Observer and posted on the County website; the draft ordinance is available for review on the County website. County Counsel Stephanie Williams explained the ordinance encompasses camping on County property and codifies the County's obligations under state law and implements the Martin v. Boise 9th Circuit case. A person who is experiencing homelessness cannot be punished for sitting, sleeping, or lying on public property when the person has no place to go. Counties are not required to build shelters for persons experiencing homelessness, however, if no shelter is available the unsheltered are allowed to sit, sleep and lie on County property subject to reasonable time, place and manner restrictions - Ordinance No. 232 sets forth the time, place and manner restrictions. In conjunction with the ordinance there is a Policy to ensure the most humane treatment for removal of homeless individuals from campsites on County property. No written or oral comments were received. The County owns a substantial amount of property in the City of Ontario and as such changes to the County ordinance may be needed; Ms. Williams will update the Court if changes are made. A second hearing will be held in two weeks.

COURT MINUTES

Commissioner Jacobs moved to approve Court Minutes of May 24, 2023 as written. Commissioner Mendiola seconded and the motion passed. (Judge Joyce was not present on May 24, 2023.)

ODOT 5310 AGREEMENT

Commissioner Jacobs moved to approve Public Transportation Division Oregon Department of Transportation Agreement No. 35479 - Operating 5310. Commissioner Mendiola seconded and the motion passed unanimously. The Agreement provides funding to purchase service to provide public transportation to seniors and individuals with disabilities, and the general public and to support the administrative costs required to manage the service contract. A sub-agreement will be

drafted with Malheur Council on Aging and Community Services (MCOA&CS) to provide the services. A copy will be returned for recording.

STIF ADVISORY COMMITTEE

Commissioner Jacobs moved to appoint Michelle Villarreal to the Malheur County STIF (Statewide Transportation Improvement Fund) Advisory Committee. Commissioner Mendiola seconded and the motion passed unanimously.

CHECK REGISTER

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

CSA – WILDLIFE SERVICES

Commissioner Jacobs moved to approve Cooperative Service Agreement (CSA) between Malheur County (Cooperator) and United States Department of Agriculture Animal and Plant Health Inspection Service (APHIS) Wildlife Services (WS); Agreement Number 23-7341-5124-RA. Commissioner Mendiola seconded and the motion passed unanimously. The purpose of the Agreement is to conduct wildlife damage management (WDM) activities to manage coyotes, birds and other predatory and/or nuisance species in Malheur County to reduce damage and mitigate human health and safety threats. The agreement expires June 30, 2028. A copy will be returned for recording.

WILDLIFE SERVICES WORK PLAN

Commissioner Mendiola moved to approve USDA (United States Department of Agriculture) APHIS Wildlife Services Work and Financial Plan, Cooperative Agreement No. 23-7341-5124-RA. Commissioner Jacobs seconded and the motion passed unanimously. The document defines the objectives, plan of action, resources and budget for the cooperative wildlife services program in Malheur County to be conducted July 1, 2023 through June 30, 2024; the County's financial contribution to the program is \$87,000. A copy will be returned for recording.

TEMPORARY EMPLOYMENT AGREEMENT - TSCHIDA

Ms. DuBois explained that Mr. Tschida requested this item be removed from the Court's agenda as he wishes to have further discussion with the Fair Board.

PIONEER CEMETERY

Present for a discussion regarding access to Pioneer Cemetery in Juntura were: Loren Canaday, Coralee Williams, Martin Joyce, Brad Williams and his attorney Brian Sheets, Danny Canaday, County Surveyor Derrick McKrola, Road Supervisor Dave Tiffany, and County Counsel Stephanie Williams. Pioneer Cemetery is a cemetery located on Brad Williams property. Mr. Canaday explained access to the cemetery was being denied via an access that is publicly owned between Beulah Road and Hwy 20; access is granted from Hwy 20 to the cemetery but there is a fence and ditch and difficult for people with crutches and wheelchairs and who are not very ambulatory. Coralee Williams explained that people in their 50's, 60's, 70's and 80's are trying to maintain the

cemetery and the best way to get equipment to the cemetery is the route that is denied. It was noted that Judge Joyce is an adjoining property owner. The access route in question is not maintained by the Juntura road district or the County.

Mr. Williams explained that his family has owned the property for over 60 years and he himself has owned/been an owner of the property for over 43 years; and there has never been a public access route to the cemetery in that area - the road has never been open. The end of the road by the highway is a slough and has trees 3 feet around growing in there. Two weeks before Memorial Day, persons cut the fence between the Joyce property and Williams property, left it open, bulldozed a path, cut tree limbs, knocked the fence over, drove through the field, cleaned up the cemetery, and threw the trash and garbage into Mr. Williams field. Access has always been from Hwy 20.

The parties discussed the matter at length. ORS 376.197 - Way of necessity to historic cemeteries addresses historic cemeteries within the exclusive farm use zone and provides that the property owner designates the route (nonmotorized) and times of access to the cemetery. The road in question is platted and undeveloped; Mr. Williams may pursue a road vacation petition in the future.

IRONHEAD ST PROPERTY

Ms. DuBois explained that quotes for a fence at the Ironhead Street facility were sought. Three entities looked at the project; two quotes were received. One quote received was incomplete. The Court authorized moving forward with the quote received that was complete.

ADJOURNMENT

Judge Joyce adjourned the meeting.