

MALHEUR COUNTY COURT MINUTES

June 26, 2019

County Court met with Judge Dan Joyce presiding with Commissioner Don Hodge and Commissioner Larry Wilson present. Staff present was County Counsel Stephanie Williams.

Also present was Larry Meyer of the Argus Observer.

PUBLIC HEARING - SAGE GROUSE RULE PERMIT/CALICO RESOURCES

Owner of Record/Applicant: Calico Resources USA Corp.

Applicant's Representative: Garrett Stephenson, Schwabe Williamson & Wyatt

Proposed Action: Sage Grouse Rule Permit pursuant to Oregon Administrative Rule (OAR) 660-023-0115 for an underground gold and silver mine located approximately 22 miles south of Vale on 62 acres of private property in the Exclusive Range Use (ERU) zone. (Property Identification: Tax Lot 101 of Malheur County Assessor's Map 22S44E)

Planning Department File No. 2019-01-001

Present for the quasi judicial public hearing for a Sage Grouse Rule Permit for Calico Resources were: Planner Eric Evans, Environmental Health Director Craig Geddes, Applicant's Representative Garrett Stephenson, Oregon Department of Fish & Wildlife (ODFW) District Biologist Philp Milburn, Bureau of Land Management (BLM) Wildlife Biologist Megan McGuire, BLM Geologist Andrea Bowen, and public member Jennifer Applegate. Notice of the hearing was published in the Argus Observer and on the County's website.

Judge Joyce opened the hearing and asked for 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; all three members of the Court said they had been on the site.

Judge Joyce asked if there were any objections to the jurisdiction; there were none. Judge Joyce asked if there were any objections to any member of the County Court hearing the matter; there were none. Judge Joyce stated that "Failure to raise an issue may preclude raising it before LUBA (Land Use Board of Appeals)"; and stated that "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.

Planner Eric Evans: Today we have in front of us a proposed Sage Grouse Rule Permit; that is kind of a new thing here in the state of Oregon, new for us, this will probably be the first one to make it all the way through the County in the state; tomorrow we will have the second one in the County. This is state statute that talks about, that has requirements for mitigation and everything with this. This has gone through the Malheur County Planning Commission; we approved the conditional use permit and it didn't receive any appeals and they made a recommendation for you guys to approve the Sage Grouse Permit.

Judge Joyce: That's your staff report - okay.

Mr. Evans: Yes

Judge Joyce asked for proponent testimony from the Applicant.

Garrett Stephenson: Good morning, my name is Garrett Stephenson, I'm an attorney with Schwabe Williamson & Wyatt, my address is 1211 SW 5th Avenue, Suite 1900, Portland, Oregon 97204, here representing Calico Resources Corp. USA. Thank you for holding this meeting, I know that there's been a lot of work behind the scenes by your staff who are brilliant and also very charitable because they allowed this meeting to happen today instead of during my vacation this last week so I appreciate that. I'm going to make some very short remarks and then make myself available to any questions you might have. But I wanted to start with where we're at in the process and what this permit really is all about. Last month the Planning Commission approved a conditional use permit for the Grassy Mountain Mine and that conditional use permit is specific to the privately owned land that is surrounded by BLM land and the reason why we had to do that is because privately owned land within the County, even if it's surrounded entirely by federal land, is subject to County land, land use regulations. So what went before the Planning Commission was an application for a conditional use permit where we talked about, as much as we could, the activities that were going to be on the patent parcel, which is that privately owned piece of land, and we also talked about some of the surrounding uses that are proposed but we haven't actually submitted a permit for. That conditional use was approved last month; it was not appealed. So for our purposes that conditional use permit is effective. What the Planning Commission did in terms of the sage grouse piece of this, because the sage grouse rules are not in the County's regulations - those apply by force of State law and to my knowledge this is one of the first times that they've ever been applied to a large scale project and when we looked at those rules there in OAR 660-023-0115, when we looked at those rules it seemed clear to us that the best way to implement the new sage grouse rules were to have the County Court actually make the final decision on whether or not the criteria in those rules are met for this project. So that's basically why we decided to bifurcate the process to put before the Court the sage grouse piece of this. The County regulations are clear that the Planning Commission can approve as a matter of final decision a conditional use permit (CUP). So essentially we split this into two parts - the Planning Commission approved the CUP and made a recommendation to the County Court, we had essentially one combined application for the two applications, so we submitted our burden of proof in one packet addressing both permits and we wanted to give the Planning Commission the opportunity to review our application for the Sage Grouse Rule Permit and make a recommendation to the Court. So, that's what's before you today; what we have done in terms of working with ODFW, because ODFW is ultimately the body that decides whether and what kind of sage grouse mitigation we have to do for the whole project. So, almost a year ago my client and myself met with representatives from a number of state agencies, ODFW, DLCD (Department of Land Conservation and Development), DOGAMI (Department of Geology and Mineral Industries), and we said look it's clear that we're going to have to apply the Sage Grouse Rule for the project as a whole; now remember the patent parcel is where the actual minerals are and it's underneath the patent parcel where the mine is actually going to be but there's going to be processing facilities outside of that on federal land subject to federal permitting; and the Sage Grouse Rule applies both in County jurisdiction and on the federal pieces that are going to be developed for the mine. The reasons why it applies on federal land

are somewhat complex and I don't think we need to talk too much about them today but suffice it to say the Sage Grouse Rule applies to the project as a whole. So what we thought, since ODFW was going to have to look at the sage grouse compliance of the project both on private and on BLM land, we thought it was most efficient to have them do that as a sort of holistic broad based look. So instead of trying to tailor certain mitigation requirements just for this 62 acre piece that is private land, what we wanted them to do is look at the habitat impacts as a whole for the project and have one set of mitigation requirements going forward and those will be imposed through a process that's called a consolidated permit with DOGAMI. The permitting process is of course very complicated but to simplify it a bit what we have to do is obtain a conditional use permit from the County in order to apply for this consolidated permit from DOGAMI; and what that consolidated permit does is it applies every relevant state law to the mine as a whole and the processing facility. So that's what's going on in the background. The idea was let's defer to ODFW for the mitigation requirements instead of attempt to tailor them specifically to the 62 acre parcel and so you will see in the Staff Report and in our application a condition that ODFW recommended that basically requires us to comply with whatever mitigation requirements they ultimately impose. We had no specific problem with that so we recommended that the Court apply that condition of approval; it's in the Staff Report - it's somewhat long and lengthy, it's a condition that ODFW itself developed, that language is ODFW's, but in principal it basically says, yes, we're okay with the County approving the sage grouse permit on the condition that the applicant, Calico, is going to come back, we're going to take a look at this project from the standpoint of sage grouse and impose any necessary mitigation. So that's basically what this permit application does. In terms of the findings that the County Court needs to make, basically those are related to whether or not the project can be located elsewhere where sage grouse habitat is not present; obviously in this case the minerals are where they are, there's really no way to relocate the mine; and I would just add that - two things - number one: the only sage grouse habitat that ODFW has mapped on the patent parcel itself is kind of a small sliver along the west side of the patent parcel and that's habitat of a kind of secondary quality, so we don't have a substantial amount of sage grouse mapped on the patent parcel, we do have enough though to where we need to address the criteria; the other thing from a factual standpoint is Calico went out and did a number of habitat analyses over the last five years or so and they haven't found any evidence of sage grouse leks, which are these strutting grounds for the sage grouse, or sage grouse themselves within two miles of the project boundary itself; so not just outside of the patent parcel but outside of the broader project boundary which is hundreds of acres around the patent parcel. So we have no reason to believe that there are sage grouse here, nevertheless we have to address the criteria. That's what this process is about. We talked about the criteria a lot before the Planning Commission; ONDA (Oregon Natural Desert Association) submitted a pretty substantial packet of testimony as did ODFW and DLCDC, raising some, well specifically with ONDA, ONDA was raising objections, and I think ODFW and DLCDC were raising some of their own clarifications about how they viewed the operation of this rule. So we had a lot of time to go through this, we went ahead and provided a packet to the Planning Commission of responsive testimony going through argument by argument about how the sage grouse rule ought to work; we think that this is a really reasonable, and frankly, the only practical way to proceed because it just simply doesn't make sense to look at habitat on the 62 acre parcel in isolation; what we wanted to do is make sure that ODFW and we were looking at it for the project as a whole. So, to sort of summarize the findings in the Planning Commission decision and the proposed findings in the Staff Report in simple terms say there's really no way to relocate this use to avoid sage grouse habitat, there's really no way to redesign it, and the fact of the matter is really the only things we have on the patent parcel itself is the mine portal, some mine shafts, and

some circulation roads in order to access those things. There's some other smaller facilities on it, that's detailed in the Staff Report and the application. But those are the findings that's incumbent upon the County Court to make with the condition of approval that says we're going to defer to ODFW on the types of mitigation that we need, if any. So that's the broadest overview I can give you in one breath but I am happy to answer any other questions you may have. Obviously we think that it's a good application; we encourage you to approve it.

Judge Joyce asked for proponent testimony; there was none.

Judge Joyce asked for opponent testimony. Jennifer Applegate asked if she could ask questions;

Judge Joyce indicated yes and asked if she was an opponent. Ms. Applegate indicated she thought she was opposed to it but had some questions.

Jennifer Applegate: My name is Jennifer Applegate, I'm a local resident and I'm really late in the game on trying to figure out what's going up out there. And so I just want to make sure I'm understanding correctly that all waste from the mine will be transported by truck out of the mine to a processing facility, or am I misunderstanding that?

G. Stephenson: If I may, Judge, I can answer that question.

Judge Joyce: Yes.

G. Stephenson: So, two things, first this hearing is not about the processing facility on the mine...

J. Applegate: Right - I just want to know how much ground is covered in between, BLM, private or otherwise.

G. Stephenson: So basically the way it works, and I'm happy to talk to you offline about this, but the way it will work is you'll have the patent parcel - which is where the underground mine is going to be, there's going to be a portal that allows mining equipment to go underground; once they come out they'll have ore, the ore will go into a processing center that's located probably less than a quarter mile of the facility. So we want to get that processing center as close to the mine as possible. The processing facility itself is completely enclosed, it's more like a factory than anything else, the ore is processed, the gold is removed, and the resulting tailings are deposited in a tailings storage facility that's slightly farther away.

J. Applegate: How much further?

G. Stephenson: I'm not sure of the actual distance but I can show you a site plan at some point.

J. Applegate: I kind of tried to look (inaudible)

G. Stephenson: So basically I think the entire, I'm nervous about misstating this, but, especially because it's even earlier in the morning for me than it is for you, but I think that the entire fenced area is something, and maybe you can correct me if I'm wrong (directed towards audience)

member), but I think the entire fenced area is something like 500 acres, there's not going to be anything going on outside of that fenced area.

J. Applegate: So the tailings is what would be considered the waste - where does it go after it's contained at that location? How does it get out of the county? Does it ever leave the county?

G. Stephenson: It doesn't leave the county. It is encapsulated in the containment storage facility. If it were to leave the county you'd have a substantial amount of truck traffic and costs, which of course we want to avoid.

J. Applegate: And contamination if there was a problem while traveling with it; that's my fear, throughout the rest of the public lands. I just didn't understand where, so it's just going to stay in Malheur County.

G. Stephenson: Everything that is mined is going to stay within that fenced area.

J. Applegate: Okay, thank you.

Judge Joyce: Okay. A little off track there but that's okay. So any other opponent testimony?

Judge Joyce: How about public agency testimony, irrigation, irrigation districts, drainage, road districts, sanitarian, ODFW?

Philip Milburn: Unless you have some questions for me Judge and Court, Mr. Stephenson presented I think what we submitted pretty accurately.

Judge Joyce: Okay, hearing none, summary from staff and recommendation?

E. Evans: At this point I would recommend that the County Court approve the application with the condition of approval that he eluded to.

Judge Joyce: Okay. Any rebuttal? Proponents or opponents, any other things to add Garrett?

G. Stephenson: Nothing unless you have questions - the only other thing I would add is, well I think we should probably talk after you vote, just in terms of procedure about adopting findings, we have public testimony that we may want to address in those findings but maybe, what I think you could do is have a vote on whether or not to approve and then we could take a three minute break and talk about whether or not it makes sense to vote on the proposed findings that you have in your packet; we might want to revise those to address Ms. Applegate's testimony.

Judge Joyce: So hearing no more rebuttals are we ready to close the public hearing? When that happens no public testimony can be heard after this point unless the hearing is reopened or continued.

Judge Joyce: Okay, we will close the public hearing and deliberate.

Commissioner Wilson stated he did not have any problems with the application and the recommendation to approve it; and that the applicant and ODFW are working together on the

matter. Commissioner Hodge and Judge Joyce indicated they did not have any concerns with the application.

Commissioner Wilson moved to approve the Application with the Condition recommended by the Planning Commission. Commissioner Hodge seconded and the motion passed unanimously.

Staff conferred with Mr. Stephenson and it was decided that Findings and an Order would be presented to the Court next week.

COURT MINUTES

Judge Joyce moved to approve Court Minutes of June 12, 2019 as written. Commissioner Wilson seconded and the motion passed. (Commissioner Hodge was not present on June 12, 2019.)

COURT MINUTES

Commissioner Hodge moved to approve Court Minutes of June 19, 2019 as written. Commissioner Wilson seconded and the motion passed unanimously.

VOLUNTEER RESOLUTION

Commissioner Hodge moved to approve Resolution No. R19-15: A Resolution Extending Workers' Compensation Coverage to Volunteers of Malheur County Effective for the Policy Period July 1, 2019 - June 30, 2020. Commissioner Wilson seconded and the motion passed unanimously. Pursuant to ORS 656.031, workers' compensation coverage will be provided to the classes of volunteers listed in the resolution, noted on CIS payroll schedule, and verified at audit. See instrument #[2019-2353](#)

COMMITTED FUND BALANCES

Commissioner Wilson moved that the Malheur County Court hereby report the 2018/2019 ending fund balances of the following Special Revenue Funds as "Committed Fund Balances." These committed fund balance amounts can only be used for the specific purposes for which they were imposed unless the Malheur County Court removes or changes the specified use by taking the same type of action (legislation, resolution, or ordinance) it employed to previously commit those amounts.

The Special Revenue Funds are: Major Bridge, Surveyor Corner Preservation, Community Corrections, Law Library, Boat License, Corrections Assessment, DA Enforcement, Taylor Grazing, Task Force, Ambulance Service District, Juvenile Crime Prevention, Wolf Depredation Fund, Economic Development, Agricultural Educational Extension Service District, 911 Fund, Traffic Safety, Court Facilities Security, State Drug Court, State Mediation, CVSO (County Veterans Service Officer) Expansion, Search & Rescue, GIS (Geographical Information System) Maintenance, Clerk's Record Fund, Special Transportation Fund, Work Release Construction, Federal Forfeitures Fund, and 45 Parallel Fund.

Commissioner Hodge seconded and the motion passed unanimously. This motion is effective as of June 26, 2019.

IGA #159173 - COMMUNITY MENTAL HEALTH

Commissioner Hodge moved to approve 2019-2021 Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services, Agreement #159173. Commissioner Wilson seconded and the motion passed unanimously. Services will be provided through Lifeways. A copy will be returned for recording. See Instrument #2019-2611.

COUNTY POLICIES

Commissioner Wilson moved to approve updates to County Policy 106 - Travel and Employee Incurred Expenses, Recorded as Instrument #[2019-2355](#); 302 - Paid Personal Leave Benefit, Recorded as Instrument #[2019-2356](#); 307 - Bereavement Leave, Recorded as Instrument #[2019-2357](#); 308 - Paid Vacation Benefits, Recorded as Instrument #[2019-2358](#); 311 - Retirement/Employment of PERS Retirees, Recorded as Instrument #[2019-2359](#); and new Policy 324 - Paid Leave to Attend Health and Welfare Seminars, Meetings or Lectures, Recorded as Instrument #[2019-2360](#) Commissioner Hodge seconded and the motion passed unanimously.

CONTRACT - ELECTRICAL INSPECTIONS/NEWMAN

Commissioner Wilson moved to approve Personal Service Contract for Commercial Electrical Inspections with Rick Lewis Newman dba Electrical Inspection Services Inc. Commissioner Hodge seconded and the motion passed unanimously. The term of the contract is July 1, 2019 through June 30, 2020. See instrument #[2019-2354](#)

CROSSING PERMIT

Commissioner Hodge moved to approve Crossing Permit #15-19 to Idaho Power Company to replace crossarms on Cassia Road #953 and Pheasant Road #958. Commissioner Wilson seconded and the motion passed unanimously. The original permit will be kept on file at the Road Department.

AMENDMENT - IGA #154122

Commissioner Wilson moved to approve Fifteenth (15th) Amendment to Oregon Health Authority 2017-2019 Intergovernmental Agreement for the Financing of Public Health Services, Agreement #154122 (Original IGA is Recorded as Instrument #[2017-2409](#)). Commissioner Hodge seconded and the motion passed unanimously. Funding for the Tobacco Prevention & Education Program was modified for fiscal year 2018 and 2019. A copy will be returned for recording.

EMPLOYMENT AGREEMENT - HARRIMAN

Commissioner Hodge moved to approve Lieutenant Malheur County Sheriff's Office - Employment of PERS Retiree Employment Agreement with Rich Harriman. Commissioner Wilson seconded and the motion passed unanimously. The County will employ Mr. Harriman as the Lieutenant/Malheur County Emergency Services Manager after his date of retirement acknowledged by PERS through December 31, 2019. See instrument #[2019-2391](#)

AMENDMENT - IGA #153131

Commissioner Hodge moved to approve Thirteenth (13th) Amendment to Oregon Health Authority 2017-2019 Intergovernmental Agreement for the Financing of Mental Health, Substance Use Disorders, and Problem Gambling Services Agreement #153131. Commissioner Wilson seconded and the motion passed unanimously. (Original IGA is Recorded as Instrument

[#2017-2514](#)) A copy of the amendment will be returned for recording. See Instrument #2019-2607.

TORT LIABILITY COVERAGE AS PROVIDER FOR PSRB IGA; LIFEWAYS CONTRACT

Commissioner Wilson moved to approve Intergovernmental Agreement #159208 Tort Liability Coverage as a Provider for Psychiatric Security Review Board (PSRB). Commissioner Hodge seconded and the motion passed unanimously. The agreement expires June 30, 2021. A copy will be returned for recording. See Instrument #2019-2597

Commissioner Wilson moved to approve Amendment No. 4 to County Contract No. [2013-3013](#) between Malheur County and Lifeways Inc.; County Third Party Amendment for Tort Liability Coverage to provide services for persons under the jurisdiction of the Psychiatric Security Review Board. Commissioner Hodge seconded and the motion passed unanimously. A copy will be returned for recording. See Instrument #2019-2598.

PLANNING DEPARTMENT

Planner Eric Evans met with the Court; Mr. Evans provided his tenth monthly report to the Court as the Court has required.

NATURAL HAZARDS MITIGATION PLAN

Lieutenant Harriman met with the Court and presented a resolution adopting updates to the natural hazards mitigation plan. Commissioner Wilson moved to approve Resolution No. R19-17: Recognizing and Adopting the Updated Natural Hazards Mitigation Plan. Commissioner Hodge seconded and the motion passed unanimously. See instrument [#2019-2351](#)

SECOND PUBLIC HEARING - ORDINANCE 220

Staff present for the second public hearing regarding Ordinance No. 220: Occupancy of Recreational Vehicles and Declaring an Emergency were: Planner Eric Evans, County Counsel Stephanie Williams, Surveyor/Engineer Tom Edwards, Environmental Health Director Craig Geddes, Undersheriff Travis Johnson, and Sergeant Bob Speelman. Public members present included: Kevin Curfman, Karen York, Linda and Patrick Ford, Larry and Bonnie Stuart, Lewis Jones, Eugene Cole, Frances Rempel, Amy Gluch, Robert Lawrence, Susan Thaler, Roy Obermeier, Shelli Monroe, William Bayes, and Cora Voigt. Notice of the hearing was published in the Argus Observer and posted on the County's website.

Judge Joyce opened the hearing, asked if all public members had signed in, and directed that the time limit for testimony would be three minutes and that all testimony and questions should be directed through and to the Court and not to staff or directly to witnesses.

Judge Joyce asked for a Staff Report.

Planner Eric Evans: My name is Eric Evans. I'm the Planning Director here in Malheur County, if you guys weren't here last week or earlier today even. This is a proposed ordinance that really kind of clarifies our policies and how we've been enforcing this throughout the years. We already have an ordinance that says you can't live in an RV in any zone in Malheur County and this is clarifying that, putting some dates out there about how long you can, and really making it possible to live in an RV while you're constructing your home and all of those things, clarifying

those issues that we know that happen and we want to allow; right now it's really not allowed, we just kind of let it happen. This is a very common ordinance that pretty much, probably every county in the state of Oregon, I haven't gone and looked at every county yet, has an ordinance similar to this or a lot of them, some of them are a lot more stringent. We currently receive a lot of complaints on this through my office, lots and lots and lots of complaints and it's really not about, it's about cleaning up the people that don't have sanitation, don't have garbage service, and are allowing garbage and even sewer to be on the ground, and some of the complaints when they're talking to me talk about lowering the price of their property just based on it being next door to where the enforcement action is. It doesn't involve anything inside RV parks, anything inside city limits. This is only in the County.

Judge Joyce asked for proponent testimony from the applicant/law enforcement.

Undersheriff Travis Johnson: Here's some pictures I'll enter in if you guys want to look through these, these are kind of some current issues that we've had complaints on so you can kind of see what we're looking to be able to go in and enforce. Like Eric said, we get a lot of complaints about these from neighbors and locals that are having trouble with garbage, sewage, maybe an excessive number of guests staying in these. We have camps where you're getting, six, eight, ten people living in RVs in someone's backyard; you guys are welcome to look at these pictures, you can kind of see that they're not neat and tidy and nice places. Also what we are finding is an increase in thefts, an increase in drug activity, and criminal activity associated with these camps because many of these people are not employed, they're here for various reasons, some not even local, I would say many of them coming from out of state for various reasons. So really we need to be able to clean some of these up, this isn't something we just pulled out of the thin blue air, this is something that has come to us from people in our community who are complaining about it and want some action and so we need, like he said, we need something, this is a common practice, there's nothing out of the ordinary from a city or county throughout this state or throughout the country. Our goal is not to be heavy handed to come in to write everybody tickets, we're a pretty understanding sheriff's office and county government, however we have a duty to protect all residents of this county, whether they're living in a camp trailer or whether they're living in a home. So we need to be able to come in with the ability to take action and enforce some of these situations where they're getting out of control. We also fully recognize people live in these RVs while they're building a house, temporarily for a number of reasons. Our goal is not to be heavy handed in those situations but to be able to have the teeth to do something when something's warranted. And you can see several pictures in there of what we're dealing with, a lot of garbage buildup, unsafe conditions, you have barbeque grills sitting out there in areas where in a couple of weeks are going to be bone dry, sewage, just general issues that come along with that so our goal is to help keep the county clean, there are rules for a reason, it's to keep our county clean and like I say, support all community members, not just those in a camp trailer. We've got a lot of people that we have to take care of and that's our goal.

Sergeant Bob Speelman: Can I add something to that?

Judge Joyce: Yes.

Sgt. Speelman: I'm Sergeant Bob Speelman, I'm a Detective Sergeant, I work major crimes and dope within the county and the cities. What we have seen since Ontario has really cracked down

on them is these little camp encampments that have been in the city have now been forced out in the county. We're looking at two camps right now, they are on private property with residences, they have a large number of people camping in campers and tents, we've had information coming from sources that there's a large amount of dope coming from both these places, that's primarily the two hot spots, firearms are being traded amongst them, and stolen property is being stored and traded in these places. And that's just two of them that we're, it's right close to the city, I'm not going to give the addresses, but they're right close to the City of Ontario. And since Ontario has really cracked down on them it's pushed that element out to the county where they can gather in one or two spots and conduct business as they did inside the city. So this is going to help us alleviate part of that problem in getting that criminal element away from these neighborhoods and try and give us some bite to it that we can actually take action. In the dope game we can't do anything really until we have somebody, a confidential informant, that's willing to work for us and it's hard to get anymore.

Undersheriff Johnson: I might add too, this isn't just around the city, we're having issues along the Owyhee River, we have one of the most pristine rivers in the country right here in our backyard and these folks are rolling their RVs up there and just creating a mess along the river and in places that are just beautiful places to go recreate and you drive by and you're like that's disgusting. So it's county-wide, it's on public lands, it's on private ground, and it's from north to south.

Judge Joyce asked for further proponent testimony.

Bonnie Stuart: Bonnie Stuart. I have a feeling we live right next door to what he is talking about and when we were here before we didn't get a chance to really say that, it's a lot, it is not an acreage where all of these campers and trailers and RVs and tents have been and they've got to be doing drugs and stuff, I mean there used to be about nine or ten, I think since we were here some of them have moved out mostly (inaudible) the law enforcement is there a lot, it's nothing to see a sheriff's officer there, the other day on our lunch hour they had two men down on the ground with their hands behind their heads so it is a dangerous place. I mean, there is still no sanitation of any kind, no electricity, no water, there's piles of trash which is really kind of scary, because like you said, this land has not been watered or mowed so it's very unkempt and they barbeque out there, they burn their trash at night, so it's just a matter of a fire, a little short time until there's going to be a fire; it is a health hazard. There's cars that pull in and out day and night, I mean it's scary, even the mail lady, she said she will not go up in there because she is afraid. Malheur County workforce was out there last Saturday and Sunday working for two days, I can't actually see that they have cleaned up much because of the way all the RVs and trailers and stuff are parked, there's so much brush that we can't really tell and I'm not going over there because I'm afraid. We have our place for sale and this issue has really been a big problem for us. But it has cleaned up a lot in the last two weeks.

Undersheriff Johnson: I might just add onto that, just real briefly, the dumpster that's been there has been paid for out of the Sheriff's Office budget to try and help remedy that issue because it's out of control and the homeowners and people living there aren't going to do it so we're trying to do our part, but that comes at a cost to everybody in the County.

B. Stuart: I think the other police officer that was there said that nobody had been using that dumpster and I can't see the dumpster because it's way back in the back.

Karen York: I live right behind them and I'm a widow so I'm by myself and I live just across the road and it's pretty scary. (several persons requested Ms. York state her name) Karen York, and I live right behind Stuarts and the owner has come and talked to me and promised he'd get them moved out, it's really scary, I have a good source that told me that they're bad drug dealers, keep your doors locked, and it's really scary for me being by myself.

Sgt. Speelman: I think we've been in your driveway a time or two.

K. York: Yeah, for sure. But they cuss and they holler and scream their going to kill each other, and it's really scary.

B. Stuart: And there's gun shots all the time.

Judge Joyce: Other testimony, like minded testimony.

Amy Gulch: Hi, my name is Amy Gulch, I'm a realtor, and this lot in question here, I'm actually in contact with the Benjamin family who owns this lot and we are trying to sell it, but, and I also have the house next door listed for sale. Because of this activity, one we can't get it sold, two it's become really a huge safety issue for me because when I'm required to go to the property for any reason I have to take someone with me just for my own protection. And I'm here to support the neighbors in our situation.

Judge Joyce: Okay, other proponents.

Susan Thayler: Susan Thayler. I am for this one hundred percent, except for the issue - I fall through the cracks. I think maybe we need to do a blight ordinance in conjunction with this. I lost two houses in California because of drugs; people moving into my homes that cost me more to get them fixed up as a result of the drugs. It cost me my retirement. I am exactly for this. I think it's wonderful, except I fall through the cracks. I've worked, as I told you at the last meeting what I've put into my property, blood, sweat and tears. It's the only choice I have to live the way I want to live right now. And the County's done wonderful protecting me and my rights. I have people on both sides of me that do the drugs, that do the garbage, and they live in regular stick houses, not an RV. I've had so much stuff walk off because of people; it's just not an RV problem. It's the drugs and it's everything else, I mean, the Sheriff's Department, I don't call them often but when I do they come out and they see me. You guys take care of me, I'm out there alone, I also am a widow. But I don't think it's just the RVs. I think we need to do something with the regular blight and get rid of the trash. You get rid of the trashy ground you get rid of the trashy people.

Undersheriff Johnson: We agree wholeheartedly, several County departments and the Sheriff's Office have got together and with the support of the County Court we have an ordinance deputy position that is funded as of July 1; now I'm in the hiring process for that, and that will take care of several issues, not just RVs. We're not (inaudible)

S. Thayler: I'm just wondering, I still fall through the cracks here.

Undersheriff Johnson: There are garbage issues, whether it's a stick built home or a RV, and weeds and other problems that we will be taking care of in conjunction with that as well as updating the RV issues...

S. Thayer: I'm just scared to death that in five years you guys are going to tell me...

(multiple talking)

Judge Joyce: Time out

Planner Evans: We're not going to be coming at all

County Counsel Stephanie Williams: Yeah, we know about it; in fact you're listed as living in a mobile home in the Assessor's Office, we understand, and no, you're fine.

Frances Rempel: My name is Frances Rempel and I am representing my daughter who lives on Dustin Drive in the Shadow Butte Subdivision just about a mile out of town and our situation is similar but different because we have a lady that purchased a piece of property down there on the end of the street and she put two containers in and they have told her she could not live in those containers so then she brought a RV in to live in that and of course she could not live in it because she didn't have any utilities and so she was issued a building permit and when they issued that building permit she proceeded then to find a trailer house that was probably worth \$500, she moved that in and put it on blocks, and I have pictures to support this, and she has now been there with a permit for at least six months; she has done nothing, she comes every, oh maybe every two or three weeks, takes something out of the containers and then leaves. And it is a fire hazard, there are ditches that have been dug for utilities that are now covered with weeds and it is, if a child were to go onto that property and that can happen because there are no gates or anything to this and you know kids like to be nosy, or an adult could fall into this ditch that has been dug for her for one of her utilities and it's three feet deep and it is dangerous and now, because of our dryness it has become a fire hazard. But that woman should never been issued a building permit until she had some of those services put in and okayed by inspection, and I'm not blaming Eric or anyone else that's in charge of those building permits, but those sites should be checked before they are allowed to do these things and she did nothing about moving those containers and I am in accord with having an ordinance officer and I am in accord with getting rid of some of this stuff that you guys deal with and I know there are people who cannot afford a house, so yes, they have a trailer house, or they have a RV that they can live in, but over in the Bend-Redmond area people are living in those trailers or their little motorhome and they move it, maybe down the street two blocks, maybe over three blocks, and then they, of course then they've moved it. So I really just think we need to do something and we need to do something about building permits, a building permit issued to these people that are buying these little lots and doing just what they've done with some of these other places. Anyway, I do have pictures that I can leave the Court so they can look at them.

Judge Joyce: Thank you. Any other proponents?

Linda Ford: Pat and Linda Ford; we do not want our names in the paper, thank you.

Unknown: We don't either.

Planner Evans: Me either.

laughter, multiple talking

Patrick Ford: We have to live across (inaudible)

L. Ford: We are the most recent residents of the area

P. Ford: We live in the brick house

L. Ford: And when we moved in there were very few, there was one trailer and the old motorhome in the area and it was tolerable, and then after, evidently Karen was saying

Unknown: The father died

L. Ford: The father died then everything started changing and then when Amy was able to, through the property owner, to negotiate the removal of those multitude of RVs they somehow ended up in the individuals front yard. Well we weren't notified that he applied for a RV park or business permit; we never saw any ditches being dug for waste or utilities or anything so we're kind of uncertain about the climate

P. Ford: The whole atmosphere for all that, it's a junkyard, it's actually a city dump and the whole problem with that piece of property and the people that are living there in RVs and the activities that are going on is it's right across the street from an elementary school. It's pretty bad, the vulgarity (inaudible)

L. Ford: I'm a retired school teacher and that really bothers me that it's right across the street from Alameda Elementary School, right across the street, it's in the city but this property is in the county (inaudible)

P. Ford: The county line is right there

Judge Joyce: Is it UGB?

Sgt. Speelman: For some reason they know where the county line is.

multiple talking

Judge Joyce: Other proponents?

Kevin Curfman: My name's Kevin Curfman, I actually live in Chehalis Washington but we've run a wildfire business out of the Ontario area here for 15 years, working along with BLM, and I just retired recently from 30 years on the Chehalis fire department as a structural firefighter, along side of running our business, worked along side of law enforcement in many of these situations and I certainly appreciate everyone's concerns and the health issues and all there. The only reason that I am here is that I have a concern for, I guess, people that slip through the cracks the other way, is that while I'm down here this year I'm living in a 5th wheel, friends have

allowed me to park it here, I am the only one of my crew that needs housing, others are local and it doesn't warrant me renting an apartment, which is very hard to find, we looked for a couple of months, trying to find housing, finally found a house that's maybe an option if I needed to, but by staying in my 5th wheel I can stay there until we get dispatched; it's fully self-contained, it's only five years old, it's a \$20,000 travel trailer, or 5th wheel; not a drop of sewage, no garbage anywhere, perfectly fine, and no problems with the neighbors or anything. And I think there's a lot of people around that do live in situations like that and this, as I understand it, even where its mentioned the farm labor, technically because the definition you look at, we fall under farm labor workers, or farm workers. So this would exclude that from being an option. The other thing is my wife and I, in our off season we are members of a group called ROAM, RVs on a Mission, we travel around and we do projects, (inaudible) we're onsite for a month and with this in place, if there were to be a project come up in this county we would not be able to do that, as I read it, because it limits us to two weeks at a time. Where were at those usually have hookups available or else they bring a sewer truck around to pump the RVs as necessary and provide water, so it is certainly in sanitary conditions. My wife and I also have what we call Firelight Ministries where we work at places after disasters, specifically where we can go and help out on a volunteer basis. Last year we went to Calistoga California and worked for just over three weeks at a resort ranch that had been burned over by the Tubbs Fire and we were able to park there and stay there and help them out; again, fully self-contained, and if that were to happen to this area and we saw something where we could come and help out or even bring some of farm background I have,(inaudible) farmer was injured or heaven forbid killed, where we could come and just help out for a few weeks, we'd lack the ability to do that. And again as I see it that this would exclude us from going to do that. And then there's also the situation where you've got senior folks that are snow birding, maybe they live in their RVs fulltime and come back north to this area to maybe stay on a child's property or on their own property, and again this would exclude them from doing that. So just kind of a concern there and wondering if there's something that could be done to allow for that. Also recently my father-in-law had some serious health issues, this was up in Washington, we took our 5th wheel to the farm, parked it there, we were able to stay there a few weeks, help out while he recovered. But again, unless this would fall into the medical hardship dwelling, I don't know if it would or not, we would not have been able to do that in this area. So I just want to point out, again, I certainly understand the situation you're dealing with and it obviously needs to be cleaned up but I just wonder if something could be in there to allow for these other cases, to go through a permitting process or something like that; sometimes that's kind of lengthy, I don't know what that would be but just please consider there are other options besides the situation that you folks are all dealing with.

Planner Evans: Do you want me to address some of those?

Judge Joyce: Okay, go ahead.

Planner Evans: With this new proposed ordinance, we are allowing 30 days, that's by this ordinance, 30 days in a 12 month period. So I don't know if that affects any of what you were addressing but

K. Curfman: 30 consecutive days

Planner Evans: 30 days in a 12 month period. Some of that may have missed what you were talking about, so anything more than 30 days we also have other code ordinances that talk about

temporary permits for some of these and if you came to me in my office I would issue a temporary permit for I think everything that you said just now.

County Counsel Williams: And that can be done right in the Planning office; it doesn't go to a hearing

Planner Evans: It's Administrative, and I think it's the same fee - \$100

F. Rempel: But we also have a nice RV center over here that they can stay in also, not just on your own peoples property or inside their

Planner Evans: RV parks

F. Rempel: Yes, RV parks

K. Curfman: And you're donating your labor for a month or so, 30, 40, 50 dollars a night is kind of expensive when you're already donating your labor in terms of all your expenses for volunteering like that too.

Undersheriff Johnson: We're going to be pretty lenient on volunteers if we're in a natural disaster.

laughter - multiple talking

Undersheriff Johnson: I understand that people get worried about government overreach and too many rules and things like that. I fully get that. And our goal, like I said earlier, is not to be heavy handed, it's to be, it's for people to be responsible and us to have some ability when they're not being responsible about those uses to actually do something about it instead of; we have several people from one neighborhood and that's just one example of what's going on. And those are the situations we're going to be eyeing. If we have a disaster and we have somebody here volunteering and they talk to Eric, they go talk to Eric and get a permit, or we come up there and you tell us what's going on, that's a whole different ball game and we have some pretty commonsense deputies, I feel like they're going to be able to make those decisions pretty easily.

Commissioner Hodge: Yeah, like Travis was saying, I think where you're talking about being commonsense, well you can look at these pictures and that, that doesn't pertain to these pictures, that's, just like you said, that's disgusting to look at that stuff and you know.

Judge Joyce: Other proponents. Hearing none, I don't think that part's going to change, so how about opponent testimony, state your name for the record.

Shelli Monroe: Good morning, my name is Shelli Monroe. I have been a citizen of Malheur County for over 20 years. I have raised three children and have mentored many children in this community. It is my philosophy that education is key to success which brings me here today. This Court is about to pass a law that is a violation of the 14th amendment which states: all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state where they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor

shall any state deprive any person of liberty, life, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. It is my opinion that if this law is passed, it will set Malheur County up for a lawsuit which in turn will cost the taxpayers of this county undue financial harm. These changes will prevent innocent citizens who may be homeless and/or poor from using their vehicles, RVs, trailers, tents etc. as shelter for their self and/or their family. Malheur County has a shortage of housing for low income families and shelter space. In the court case of Steven Jacobs Elstein and 5 other plaintiffs versus the City of Los Angeles 2014, the City passed a law that prohibited the use of a vehicle, RV, etc. as living quarters either overnight, day by day, or otherwise. You could not park on any public street, lot, public garage, etc. Mr. Jacobs Elstein and the other plaintiffs were not only cited but also arrested for leaving their personal items in the vehicles while sleeping at a homeless shelter and/or traveling thru Los Angeles. This law denied them their constitutional rights according to the 14th amendment. They were singled out and persecuted for being homeless and/or poor. The law enforcement officers were placed in a position of using subjectivity. This position was not only unfair to the ordinance officers but led to the abuse of discretion. This is no different than the English Feudal poor laws which led to the round-up of undesirables. The 9th Circuit Court ruled in favor of Mr. Jacobs Elstein and the plaintiffs stating that it was a violation of the due process clause of the 14th amendment and it was an unconstitutional statute. I understand that clarification of the current law is necessary. However, we need to tread carefully in how these changes may be interpreted by those enforcing the law in the future. In summary, this law, if passed, will pave the way for law enforcement to target the homeless and innocent citizens of this community and it is my opinion therefore unconstitutional. It is also my opinion that it opens the door for discriminatory enforcement against the homeless and poor of our community. It violates the due process clause of the 14th amendment. For many homeless persons, their automobile, their RV, their tent, etc. may be their last major possession that can provide shelter for their self and/or their family from the elements. It may be the only means they have to be able to look for work and/or seek social services. Selectively preventing the homeless and the poor from permanently using their vehicles, RVs tents, campers, etc. for activities that many other citizens may use on a temporary basis is wrong. No one should be singled out and/or penalized because of their living situation. Let it be noted that I, Shelli Monroe, as a citizen of the United States of America, of the State of Oregon, and Malheur County am opposed to this law. Thank you.

Judge Joyce: Other opponents.

William Bayes: My name's William Bayes and I basically grew up in Ontario and from Ontario was moved over to Boise through the MEPS center and to the military, fought for this country and the people for their rights, not only their opinions, or warm fuzzy feelings or desires, but their rights. And all the things that I've heard here today is in an attempt to squash what we want or that warm fuzzy feeling. There is existing laws currently that will prohibit or take care of or fine these individuals. As far as the real estate and property values there is petitions that could be petitioned that they cannot sell their home because of this property, they need to get it cleaned up, they need to do whatever, EPA can watch their property, any of this garbage blows off of their property therefore it's littering, it's a \$5000 maximum fine in the state of Oregon. There's so many different laws that can be taken care of to do this, sewage, sanitation, like I said EPA, all of these are fines that could be imposed on them. And go on long enough they'll either have to leave and so forth like that. As far as drugs, there's federal funding, state funding, so forth for them to do their job. I understand we don't want drugs around our kids, around our families,

around our so forth, but the garbage issue is a byproduct it is not a cause of the drugs and so forth. As far as the ordinance control and code enforcement, I understand we haven't had one for a while, on Facebook blog there's a lot of people saying that they have called, they've complained, and nothing's happened. Well, you know, my father was an Eldorado County sheriff deputy down in California and he always was upset because somebody didn't do their job correctly; it's called dereliction of duty, whether we want to approach or call it what it is. People that don't want to do their job and look for other easier ways to throw a blanket over the situation, that's not how things are done. There are also vagrancy and trespassing laws that could be used and utilized, which nobody's even mentioned or anything like that. As far as private property, the state law that says regarding the use and prohibiting of any local government to basically impose a code like this says that you guys are very limited in what you can do. Oregon Statute 197.493 states that a state agency or local government may not prohibit the placement or the occupancy of a recreational vehicle or impose any limit of length of occupancy of a recreational vehicle solely on the grounds that the occupancy is in a recreational vehicle. If the recreational vehicle is located in a manufactured dwelling park, a mobile home park, and your pretense to this code is that even the RV park out here with the way the code's written, they can only stay there fourteen days.

Planner Evans: It actually says, nothing herein however shall be construed to violate ORS 197.493.

multiple talking

W. Bayes: It says you can only be in one spot for fourteen days. That's the cut blank and then you've got to move from that spot over to like the next spot right next to it or across the other RV park, but the same spot for fifteen days. It doesn't matter because this law, state law, says you can't do that. It says if it's occupied as a residential dwelling, so there's people, you want to say six months and then we can revisit if your house is taking longer to build, then we, depending on our administrative discretion will give you a permit. The law says "No". It says there is no length of time of which you can prohibit them on living on that. This all comes down in what I am looking at is the County Assessor's loss of revenue for money because a RV sitting on a piece of property is not worth as much taxes as if there's a house sitting there. So, it also says if the RV is lawfully connected to water and electrical supply system and sewage disposal system, which the majority of the RVs now days are self-contained, so therefore it meets that criteria no matter where it's parked, even in front of the Sheriff's Office, across the street in the public road, there's nothing you can do about it. We need to use the laws that we have, such as the burn bans, we can require other codes or amend other codes that if you have a barbeque or so forth like that it needs to be, you know, so far from any rubbish or shrubs, sagebrush, whatever, have bricks laid around it, something to that fact if you're worried about fires. Again, this is not, like this lady here had said, it's against civil rights you know for life, liberty, and pursuit of happiness anyway. This whole 9th Circuit Court has opposed Oregon to make this law 197.493 so that people, say for myself as I said earlier was a military person and when I got out I had a transition between civilian life and my disability and being able to afford to live. I had to live in my RV. And a lot of people don't know of it but when you go in to getting Social Security, even though you qualify, you have six months before you can even get a penny. So what are these people going to do? Let's say it's in November, December, you're going to put them out in the street. Housing in this area is so small and then when you do find a place they want a fortune for it and all of our issues and problems here can be pointed towards one area and that is the

prison. When the prison opened it up to an overall instead of a sex offenders prison it brought a lot of people here that are as the term used is undesirables and their families and so forth like that and if you look at the timeframe and so forth that's when we started having our problems, that's when a lot more gangs came into Ontario, that's when a lot more drug use has been used, that's why Ontario has beefed up their police force and if I'm not mistaken, even budgets for law enforcement in this area has been raised a bit in order to battle these things. So we just can't throw a blanket over a fire and say okay that's good because it's going to come back and bite us one way or another in civil suits, county pay for it, people, problems, I think this is not only illegal but it is wrong.

Judge Joyce: Is there any other opponent testimony that's any different than what we've already heard?

Robert Lawrence: I'm not going to say I'm totally different, I wrote out a page and half about this here, I just want to add (Judge Joyce asked for the speaker's name; Robert Lawrence from Ontario). I think people have said a lot of what I want to say, I've got to say one thing, there's one of those pictures that the sheriff handed, it's a picture of a camper with a bunch of boards and stuff in front of it, those boards don't have anything to do with that camper that's setting behind there. Anyway, I did a tour of a piece of property or close to a piece of property that I own in the north part of Ontario, I counted 18 campers that were occupied, within those 18 campers I estimate about 24 people living there and that includes children. So, okay, you've said you'll have discretionary enforcement and so forth but you're passing a law here for crying-out-loud you don't spot enforce a law. These people are not dangerous. They are only trying to get by. If you ask them why they're there they say because they are poor, maybe they don't have a job or whatever. I did a little scan around the outer rims of the range of my property and I found three more campers. You realize the city mayor of the City of Ontario has a person living on his business property in a camper; maybe he's a watchman or a maintenance man but he's just living there, he's not hurting anybody, are you going to make him homeless like all the other people that are living in these campers. I would suggest instead of sending in the police enforcement - hey get some social workers, get in and help these people, don't add to the problem by making a law that throws people out of their only home they have to live in right now. Discretionary law enforcement is wrong. It puts everyone who might be at the edge of the law or even violating this law in a case of nervousness; they are afraid of this law. And I'm sure that these kind of ordinances and laws are complaint driven, somebody complains, the law enforcement has to go out and if law enforcement doesn't do their job according to this law that complainant has a right to complain and complain and even hold law enforcement accountable for this not getting taken care of. It's not an emergency, the only emergency in this county and town and area is homelessness which is caused by poverty; the number one killer of human beings on this earth is poverty; we got it here, it needs to be addressed and the drugs and the goofy's that are living out there, they can be dealt with without having such a strict law on top of everybody, it's like he said "don't throw a blanket over the fire", do something about the fire. That's it.

Judge Joyce: Thank you.

Lewis Jones: Lewis Jones. I came to the area about a year ago; broke down, no place to go. Back in December I bought a trailer, a 15 foot trailer, been living in one since then. I received an \$18,000 settlement check, and I was going to buy a house or even get myself in a home. You can't buy one here. So I'm still living in one. If you guys changed some rules or regulations where people could even get into a place, get out of these trailers or even off people's

property, then maybe some people can change their lives. I came to the area, my wife and I did, and we like the neighborhood, we like the place, that's why we stayed. And we're still fighting to stay here. We're not giving up. And I'm still looking for a place. Like I said, I came here five years ago and I still want to be here. And I even had the police check me out, no warrants on me, I don't use drugs, all I want to do is just to remain the rest of my life here because I like the area. I came here sick as a dog - I'm healthy as a horse. Just change the laws, get people off the streets, give them each a home. Build a halfway house, that'd get them off; that's what we did back in (Georgia?), you know we changed some lives back there, we could do it here. But all what the mayor or the city or the county have to do is change the law, do that and we can get the bad people out of here, give the people a job. You know it doesn't take a genius to do all of this. You know I've seen it done too many times. And we could do it here. That's all I have to say.

Judge Joyce: Okay, thank you. Other comments.

F. Rempel: I might add too, some of these, and I understand our gal that's in real estate because when you have a mess on a piece of property and you own one side and somebody else owns it on the other side your property value just goes in the toilet, because no one wants to buy something that is living next to this mess, and in my daughters case that's just what has happened and her neighbor lady on the other side of this mess is in the same boat and I mean, something yes, something has to be done. My daughter builds a big long fence, didn't want to but had to because she didn't want to look at this mess every night when she came home from work and I wouldn't either, I just don't think, I think we need have a little more, maybe a sheriff's patrol like for fire hazard, this particular subdivision the owner of the subdivision died so it was left to another family member, they've done nothing, they have lots that have not been weeded, mowed down, or taken care of, and so it has become a very bad fire hazard. So I think that we need some moderation of people, of law enforcement or county officials to look at this issue of weeds and take care of some of our weed control, especially in a housing area.

Judge Joyce: Okay, one more time, any new testimony that has not been heard before or said or repeated.

W. Bayes: Well I think there is a comment or an idea here and that is people's property. You own something, that means you've worked for it or it's family given, something like that, I made the comment on the blog that if I was given a ten million dollar home and its residence was in a HOA I wouldn't live there, because I'm not going to allow any one person or a group of people to tell me how I'm going to live, what color my house can or can't be, what color my garbage can can or can't be, what I will park or won't park in my driveway, or how long my grass has to be, and if that's what Malheur County's idea of coming up with code is maybe we need to understand what people's property is to them and the laws that govern the overstepping of what you can do on my property. So I mean, unless the police are there on official business, they're just another guy; they have no jurisdiction on my property unless I'm doing something illegal by the state. So it's a very fine line between what we want and what we can actually do and we need to find that.

S. Thayler: I think if the County would enforce a really strong blight ordinance, it worked in California, California's not the best example, but if you put in some really stiff fines to property owners that allow this kind of vehicle being parked on a, they'll take care of it, you put a five or

ten thousand dollar fine (inaudible) on the property owner for allowing this to happen on their property they're going to take care of it.

Unknown: There's no jurisdiction.

R. Lawrence: Just a quick question to the sheriff's office. The new officer that you have coming in, the ordinance officer, under the existing law would they be able to go in on these properties, like these folks are living next to, and actually get some action done there? Under the existing law because you say there's already a no live in a camper law.

Undersheriff Johnson: Yes and no. We're working on one right now and it's just a slow process, there's a reason there's a lot of people here because it's taking so long to get anything done.

There just aren't any teeth in it.

R. Lawrence: Is this new ordinance going to make it any faster for you because I know the bureaucracy that goes on with enforcing ordinances.

Undersheriff Johnson: It should, it allows us to go in and cite people and then allows them due process. It's not (inaudible)

R. Lawrence: You mean don't have that under the present laws or ordinances?

Undersheriff Johnson: We can cite under the County code right now.

R. Lawrence: So this ordinance is unnecessary.

Undersheriff Johnson: This codifies what we have right now.

County Counsel Williams: The time limits in the ordinance are necessary. It's clarification of the time.

Planner Evans: Right now if you're building a house in Malheur County you can't live in your RV. So parts of this actually expands (inaudible) so if you're building a home on your property you can live in an RV for six months.

R. Lawrence: As I'm understanding it that isn't the problem here, the problem is junky people and undesirables living there.

Planner Evans: But right now under current ordinance it doesn't allow those types of practices so

R. Lawrence: So law enforcement can go in right now, I mean right now

Planner Evans: Potentially they could but it's been our common practice that we don't do that so

R. Lawrence: It sounds like spotty law enforcement to me. If you have that rule now why not enforce it now not add this other high handed

County Counsel Williams: Well you know the blight ordinances and the public nuisance ordinances are effective but what happens is that, and you know I really appreciate everything

that you said about poverty, because what would have to happen is that, these ordinances that we are looking at, they're not criminal, they're civil; they're civil violations where you're issued a ticket to pay a fine and you go to justice court; there's no jail time associated with violations. What happens is, is that the people that are marginalized and disadvantaged right now, they can't afford the fine, they can't afford to clean up their residence, so the County would have to go in and clean it up and put a lien on the property in order to get reimbursed for doing it. So it's just kind of a vicious circle (inaudible)

R. Lawrence: So this new ordinance

Judge Joyce: Time out, wait a minute, let her finish.

County Counsel Williams: and really what this does is too for people, absentee landowners when people move in and squat on their property, it tells the landowner and not necessarily the people who are living there, this is your responsibility, you own the land, this is how long people can be there.

R. Lawrence: So it throws all that back on the landowner.

County Counsel Williams: It is the landowners (inaudible)

R. Lawrence: What it will do is it will criminalize

County Counsel Williams: It doesn't criminalize anything, these are not vagrancy laws, these are not trespassing laws, those are criminal laws

R. Lawrence: Doesn't sound like, excuse me I'm

County Counsel Williams: you're fine

R. Lawrence: It doesn't sound much like a change in the present code except that it covers

Sgt. Speelman: It clarifies it

County Counsel Williams: It sure does, right.

Sgt. Speelman: It clarifies it for us to enforce.

County Counsel Williams: And it gets rid of the subjectiveness that law enforcement is maybe doing now.

R. Lawrence: I'm associated with an Ontario city councilman, he said Ontario city code, they went through this, having to put a lien on the property and all that stuff, but that's the way it's done in this country, law enforcement just has to step up and do that, take the time.

S. Monroe: I believe in the state of Oregon we already have a law in place to help with hostile takeovers of private property because I believe that after a certain amount of time when somebody has lived on a piece of private property they then become a tenant and so you have to go through the eviction process of a tenant. Why not go down the path instead of passing this.

County Counsel Williams: The landowner does that and the landowner is not doing it.

S. Monroe: But why not go down the path of this tenancy and the eviction process and move that eviction process faster when there's a situation where there are drugs and criminal activity happening on the property but it's been proven.

Undersheriff Johnson: Well if the landowner doesn't want to do it we have no right to force them

County Counsel Williams: And the time limits are mandatory under the statute.

W. Bayes: We could urge all landowners that if they're leaving for a prolonged period of time to sign a waiver of trespass to the sheriff's department that they can go out there on that person's property and say you're trespassing, he's given us authority to kick you out of here, instead of him sitting there

Sgt. Speelman: And we have done that, we have trespassed people that are squatting on other people's ground

W. Bayes: Well yeah but you need the landowners

multiple talking

W. Bayes: that's what I'm saying but that's another avenue rather than

multiple talking

W. Bayes: I mean just put it in the newspaper, put it out there, have the forms available, make signs available.

County Counsel Williams: This is another tool that goes contemporaneously with all the other tools that you mentioned

W. Bayes: Passing a code that is in opposition of state law is not a tool, it's illegal

County Counsel Williams: The code is not in opposition of state law.

W. Bayes: Yes it is, I just read the law, it says you cannot put time limits on it.

County Counsel Williams: Right - in a mobile home park

W. Bayes: No. Period. Anywhere in the state.

County Counsel Williams: No sir, and also the ordinance says that nothing in the ordinance, it flat out says it in number one, nothing herein however shall be construed to violate ORS 197.493. It's right in the code that we wrote.

W. Bayes: Okay let me read it again so

County Counsel Williams: No, I don't need to hear it again

W. Bayes: because the first time was maybe spontaneous, people weren't listening maybe

Judge Joyce and Commissioner Wilson: We've already heard it.

W. Bayes: If you've heard it then why are we here?

County Counsel Williams: And Judge if you want to we could admit the law right into the record if you want.

Judge Joyce: We could admit it, we'll admit it, yes

Judge Joyce: Is there anything new? That's what I'm trying to get at.

S. Monroe: The City of Boise had passed an ordinance or a law that would not allow people to sleep on the street and it went all the way to the 9th Circuit Supreme Court and was found unconstitutional because you cannot prevent people from doing just that, so in light of that by doing this here you're still going to be in violation of the constitution, and I believe they went under the 4th, 5th, and 14th amendments.

Sgt. Speelman: And that is under appeal right now, that lawsuit's under appeal.

S. Monroe: And they're going to lose.

multiple talking

W. Bayes: The prime definition of it right here, life, liberty and the pursuit of happiness; that's what this man did right here and that's what we're all after; we're going about it different ways but it's our right, right there.

Undersheriff Johnson: And just for the record, the Sheriff's Office, we understand the poverty in this county, there are some very sad situations, but we also understand the people in the community that are in these other situations where that's affecting their property and their right to pursuit of happiness. And you guys have used the term undesirables, I want to make very clear, we are not calling these people undesirable, that is not a word that the County has used; the situations might be undesirable and difficult but you guys are the ones calling these people undesirable.

L. Jones: You guys saying that everybody out here that is homeless is drug addicts; I'm saying not everybody that is homeless (inaudible)

Sgt. Speelman: If you'll recall I said we're looking at two specific spots that we know that the drug activity, stolen property, and firearms are being traded, and the problem is getting in to them properties.

L. Jones: Because I'm just trying to say not everybody is.

Sgt. Speelman: And we agree, not everybody is, and I would say the majority probably isn't.

L. Jones: Because my wife and I, we (inaudible) still living in a 15 foot trailer, because like I said when I got my \$18,000 from my attorney back in December I bought an \$8000 truck so we had a decent vehicle, but I was being denied in every apartment in town and every place else that we tried but I had the money to get us a place but that didn't count. But we're still living in this 15 foot trailer because I'm not giving up. I don't know how to give up.

Undersheriff Johnson: We just want the record to indicate that the homeless situation and those that are in poverty, we recognize that it's a problem and our goal is not to make that worst but we also recognize there are those who it affects their pursuit of happiness as well. So it's a balancing act and I get what you guys are saying; I'd love to be able to draw a black line in the sand and know you can't cross this line but from my perspective unfortunately life's not that way.

S. Monroe: The one thing that I say with the passage of this is the fact that it puts the officers in a position like what happened in Los Angeles where you're placed into a position of subjectivity, of having to look at each individual situation and make a decision, which could potentially put you and your job and your career at risk, along with other people because of the civil

Undersheriff Johnson: I believe that's why there's the due process that goes through court; we don't have the final say.

R. Lawrence: One more little thing, the sheriffs, undersheriff here, do you think if you kick these undesirables, there I said it, out of those campers where they're trading guns and doing drugs and stuff, are they going to quit trading guns and stealing and doing drugs?

Sgt. Speelman: Therein lies the problem. They're going to move to another location whether it be in our county, another county, or back somewhere in the city. And that's an age old thing, when you start pressuring one specific area, they pack up and move to another area and until we get complaints in that area, they're doing what they want to do. A lot of it's complaint driven.

Undersheriff Johnson: It's not going to fix it completely but just because it doesn't fix it completely do we just give up and let them just run wild? You look at what's going on in Seattle and Portland and San Francisco and some of these places, it's incredibly sad. I feel terrible for these people but at the same time do we just give up and let everything go that way or do we put up a fight and try to keep our community clean and try to continue to improve our economic development and try to get bettering it so that people can continue to improve; it's not going to be overnight. But if we just allow these people to keep camping and staying, what that says is, if you build it they will come. And I can tell you right now people are coming to Oregon because we have reduced sentencing on drug crimes, all drug possession crimes are misdemeanors. We have abundant welfare, we have certain policies in place that attract these difficult situations. And we don't take it lightly, I guess is where I'm going with that. And I appreciate your concern, like Ms. Williams said, it's sad, my heart goes out to some of these people but I'm not just going to give up and allow that to come crashing down and it to continue to get worse.

R. Lawrence: But, is allowing law enforcement to enter people's property without due process

Undersheriff Johnson: There is due process. I guess that's where

K. York: Am I supposed to go to bed every night scared to death and I'm scared to leave my home to go anywhere.

Undersheriff Johnson: This is not authorizing us to go in, throw cuffs on everybody and put them in jail. This is going to be a process where they receive a civil citation and then they have an opportunity to go before the justice of the peace.

Judge Joyce: Okay, I don't think we're going to get anything new here right now so I think it's time to move on. Our next step is to ask for summary for the staff report; we've got some other assignments coming up later on in the day.

Planner Evans: I really don't have a summary but it would be my recommendation to approve Ordinance Number 220.

Judge Joyce: That's your recommendation?

Planner Evans: Yes.

Judge Joyce: Okay, so then we're going to close the public hearing; no public testimony can be heard after this point unless it's reopened or continued; and so at this point we're going to take a recess and then we will deliberate and we'll take it under advisement for our options.

HEALTH DEPARTMENT

Health Department Director Sarah Poe met with the Court. Ms. Poe requested authorization to temporarily contract with a person to fulfill the role and duties of the Tobacco Prevention and Education Program (TPEP) Coordinator from July 1 through September 30, 2019. The State is restructuring their TPEP funding for the next biennium and program funding availability will not be known until October 1; the County's funding is precarious at this time as its action plan was not completed this last biennium. Bridge funding is available for the next 90 days (July-October); and it is proposed to contract with an experience intern for the next three months to bring the program into compliance. (25 hours a week for 3 months)

Additionally, Ms. Poe is working with Ms. DuBois regarding the Public Health Emergency Preparedness Coordinator position; options are being explored.

Commissioner Wilson moved to approve the requested contract position for three months for TPEP. Commissioner Hodge seconded and the motion passed unanimously.

ORDINANCE 220

The Court requested that Ordinance 220 be put on the agenda for next week as they wished to consider the testimony they had heard. Ms. Williams explained the possible options included: adoption of the ordinance as proposed; adopt the ordinance with amendments; or not adopt it.

COURT ADJOURNMENT

Judge Joyce adjourned the meeting.