

## MALHEUR COUNTY COURT MINUTES

September 7, 2016

County Court met with Commissioner Don Hodge presiding and Commissioner Larry Wilson present. Staff present were; Administrative Officer Lorinda DuBois and County Counsel Stephanie Williams.

Also present was John Braese of the Malheur Enterprise.

### **APPEAL HEARING - PLANNING DEPARTMENT FILE #2016-05-001 - BENCH/SEUBERT**

Staff present for the appeal hearing of a Planning Commission decision granting a lot line adjustment between Kelly Bench and Seubert Excavator were Planner Alvin Scott, Assistant Planner Jamie Willet, and Surveyor/Engineer Tom Edwards. Applicants Kelly Bench and Nick Seubert were present. Public and neighbors of the property present were: Charles and Janet Maus, Tamara Magnuson, Brian and Deborah Wonka, Wm A. Batcheller, Leroy and Shirley Pontius, David Brandt, Margarita Machuca, and Jeannette Petersen.

Commissioner Hodge opened the hearing and explained that those persons giving testimony should state their name and address for the record; testimony would be limited to three minutes; and that all testimony and questions should be directed to or through the Court and not to staff or directly to witnesses.

Commissioner Hodge asked for any abstentions and potential or actual conflicts of interest from the members of the Court. There were none.

Commissioner Hodge asked for any ex parte communications or site visits to be divulged. There were none.

Commissioner Hodge asked for any objections to the jurisdiction. There were none.

Commissioner Hodge asked if there were any objections to any member of the Court hearing the matter. There were none.

Commissioner Hodge stated: Failure to raise an issue may preclude raising it before LUBA (Land Use Board of Appeals).

Commissioner Hodge asked for a staff report.

Planner Alvin Scott: This would be Planning Department File No. 2016-05-001; An Application for a property line adjustment. Owners of records are Seubert Excavator Corporation, PO Box 57, Cottonwood, Idaho 83522, and they are Parcel #1, Tax lot 800. The other owner would be Kelly Bench, 4438 Oak Road, Ontario, Oregon, he's owner of Parcel #2, Tax lot 600. The applicants are the same. The proposed action is a property line adjustment between tax lot 800, Assessor's map 17S4719, and that would be Parcel #1; and tax lot 600, which would be Assessor's map 17S47, and that would be Parcel #2. Approximately 14 acres. Property identification, again, is tax lot 800, Township 17S, Range 47E, Section 19, Map 17S4719,

Malheur County Reference Number 6948; and, tax lot 600, Township 17S, Range 47E, Sections 19 and 20, Malheur County Reference Number 6967. Property location and directions - the subject properties are located north of Ontario Heights Road and West of Oak Road. The zoning is Exclusive Farm Use (EFU). The parent parcel sizes are: Parcel #1 is approximately 42.40 acres; and Parcel #2 is approximately 47.18 acres. Parcel use - the property to be included in the property line adjustment is currently bare ground. Surrounding use - aggregate mining, residential dwelling, and agricultural uses. Access - the access will be off of Ontario Heights Road through the current mining operation of Parcel #1. There are no sanitation requirements. Fire protection - the current, the fire protection would be, if there is a non-farm dwelling would be through the Ontario Rural Fire Department. There are no known natural hazards. Water rights would be the Owyhee Irrigation District and indicated there are 20.1 acres of water right in section 19 and 9.9 acres of water right in Section 20. Warm Springs Irrigation requests a review prior to the recording of the deeds. Zoning history - 9.5 acres of the parcel to be adjusted was entered into the Malheur County Goal 5 Inventory in 1994. A conditional use application for aggregate mining was denied in 2008 (Planning Department file #2008-10-003).

General Criteria. Malheur County Code 6-9-4: Authority to Make Final Decisions. A. The Planning Director may make administrative decisions on outright permitted uses as provided in Chapter 3 of this title, and the site development plan as provided in Chapter 5 of this title. The Planning Director may make land use decisions as provided in Chapter 12 of this title. B. The decisions of the Planning Director on the site development plan as provided in Chapter 5 and on outright permitted uses as provided in Chapter 3 of this title shall be ministerial decisions under ORS (Oregon Revised Statute) 197.015(10)(b) and not land use decisions and shall be reviewable by the Planning Commission. C. The Planning Commission shall be the final hearing body and make final decisions on conditional uses, variances, nonconforming uses and administrative decisions referred by the Planning Director. The Planning Commission shall be the hearings body of appeals of Planning Director administrative decisions. D. The County Court shall be the final hearing body for legislative hearings and the final hearing body of quasi-judicial decisions when appealed. The County Court's hearings shall be held on the record. If the applicant or a party provides information that shows good cause, the County Court hearings may be held de novo. E. Final decisions of the County Court may be appealed to the Land Use Board of Appeals. (Ordinance 86, 12-7-1993) 6-9-12: Time Computation- Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, legal holiday or any day on which the county is not open for business pursuant to a county ordinance, in which case it shall be excluded. (Ordinance 86, 12-7-1993; amended Ordinance 125, 6-20-2000)

Would you like me to read the ORS definitions and rules Mr. Chairman?

Commissioner Hodge: Is there anybody, does anybody want to hear him read those definitions, going down through that? I kind of got some shaking yeahs and some no's; I would guess no then.

Mr. Scott: Okay, I have....

talking in background

Commissioner Hodge: Well and I heard the gentleman, I've heard you say two or three times that you didn't bring your hearing aids, so you're having a hard time hearing?

Mr. Batcheller: Well I can't hear at all. I can hear you now. It was my fault, I got too much going on in my life, brushed my teeth, took a shower

Commissioner Hodge: Well I don't know you; are you part of this, is he included on this stuff, this appeal?

Mr. Scott: Yes

Commissioner Hodge: What's your name sir?

Mr. Batcheller: Bill Batcheller

Commissioner Hodge: Bill Batcheller. Okay, he's not one of the Bench or what was the other one?

Mr. Scott: Seubert. He's one of those that is appealing the decision.

Commissioner Hodge: He is

Mr. Scott: Yes

Mr. Batcheller: I'm okay, I just had something to say, I got, my wife's got terminal cancer from, she's the old timer of the neighborhood, she's lived there the longest, stay at home mom, and I don't leave her more than a couple of hours. I just had a little something I wanted to say and then I'll head home. I feel like a fool, I don't, I can't respond to anything

Commissioner Hodge: Well I was going to say if you're a main part of this, does it maybe need to be put off for a couple of weeks?

multiple persons offered Mr. Batcheller seats at the front of room; he declined

Mr. Batcheller: Well my wife has breathed this stuff longer than anyone. She's a stay at home mom. She's a prime example of what happened.

Commissioner Wilson: The question mainly was do you want Alvin to read all the definitions regarding property line adjustments?

Mr. Batcheller: No

Commissioner Hodge: You're not hearing it any how so, is there anybody else that wants Alvin to read the rest of these definitions?

multiple persons in audience stated No

Commissioner Hodge: Okay, let's just dispense with that and go on.

Mr. Scott: Okay, I have conclusions (inaudible)

Commissioner Hodge: Okay. In this, what you've given us?

Mr. Scott: It's the conclusions

Commissioner Hodge: Conclusions, okay on, it didn't look like there was a page number on it

Commissioner Wilson: It's the last one there

Commissioner Hodge: You want to go ahead

Mr. Scott: The conclusions that the Planning Department came to are 1. No additional parcels were created by this adjustment. 2. Both parcels will comply with dimensional standards of County Code, for example setbacks, well fencing, in the EFU zone that would be in Malheur County Code 6-3A-6. 3. The property line adjustment does not grant any uses that otherwise require approval in this zone under Oregon Revised Statutes or Malheur County Code. 4. The irrigation delivery and water rights must be approved by the Owyhee Irrigation Company. Our conclusions were that the applicants have shown that the criteria for a property line adjustment have been met and notice of a proposed favorable decision was mailed to adjacent landowners. I believe that they had the opportunity to testify today because there was a day discrepancy. That is all I have Mr. Chairman.

Commissioner Hodge: Is there anything else anybody needs to add? Yes?

Ms. Magnuson: I didn't hear his last comment.

Unknown: His last comment

Commissioner Wilson: You want to speak up Alvin

multiple persons talking

Mr. Scott: Notice of a proposed favorable decision was mailed to adjacent landowners, there was a question of a one day discrepancy and I believe that that's why they have the opportunity to testify yet today. Is that correct?

multiple person disagreeing

Ms. Williams: The Court did a de novo hearing, I don't think that was the reason why...

Mr. Scott: Okay, I stand corrected then.

Commissioner Hodge: Okay, so, I guess we go on down and say, that was the staff report, ask for proponent testimony. Start with the applicant and then it says others go to questions on the floor ask for opponent testimony.

Commissioner Hodge then asked Mr. Bench to testify.

Mr. Bench: Kelly Bench, 4438 Oak Road. Well we've been through this several times, same information, same questions, same answers. It's a property line adjustment. There is just 14 acres changing from one person's hands to another. I think he went through the definitions of the property, and have you guys had a chance, you've got maps, you've got some information. I don't know for sure what else to say at this point. Of course we're in favor of it. It doesn't indicate any use to the property in this action. The appeal here was, as near as my understanding, is because that the appellants didn't get a continuance, they wanted a 30-day continuance, so they appealed because they didn't get a 30-day continuance. And then also it appears because that Nick's email wasn't in the application. I just talked to Alvin a few minutes ago in the office and said okay, well do you have Nick's email address and...

Mr. Scott: We furnished an address that they could contact him at; it wasn't necessarily

Commissioner Wilson: Who's Nick?

Mr. Scott: Mr. Seubert.

Mr. Wilson: Oh, okay, sorry

Mr. Bench: So, obviously these are frivolous reasons for appeal so we're having to spend time messing around with them. What questions do you guys have?

Commissioner Wilson: Well, maybe the question that I have on the two, the request for this hearing, have those issues been met?

Mr. Scott: As far as I know sir, yes.

Commissioner Wilson: So this continuance, this appeal gives them a good 30 days or more

Mr. Scott: I believe it was closer to 60 days

Unknown: It was more than 30 days

Commissioner Wilson: Okay. And the other issue was an email address that was lacking

Mr. Scott: And we don't normally supply that

Commissioner Wilson: But it was supplied

Mr. Scott: No, we furnished an address that they could, a physical address that they could contact them at.

Commissioner Wilson: Okay

Mr. Bench: I've got the email address, Nick's got his email address if there's a problem

Commissioner Wilson: But those are the only, those are the two reasons and you've met those?

Mr. Bench: Uh huh.

Commissioner Wilson: Okay. That was my question

Mr. Bench: Something else that I might mention on the process of their appeal or their exemption is they gave a list of people who were in the community that were against the application and they have a stack of letters. Some of the people that are on the list did not provide a letter, so it wasn't accurate, it wasn't an accurate list.

Commissioner Hodge: Were they required to supply a letter?

Mr. Scott: Not as far as we're concerned.

Ms. Williams: (inaudible) ... the list of the people that agreed to the appeal.

Mr. Bench: I talked to at least one of those people and they didn't agree to it even though they were on the list and I'm not going to say who they are because I'm not going to drag them into this.

Commissioner Hodge: Okay. Well this is proponent testimony, are...

Mr. Bench: I'll let other proponents speak if you guys don't have any more questions for me.

Mr. Seubert: I don't have anything to add, other than the reasons why we're here.

Mr. Scott: Could you introduce yourself please.

Mr. Seubert: My name is Nick Seubert. I'm the co-applicant for the property line adjustment. I don't have anything to necessarily add to it other than what you've already heard.

Commissioner Wilson: Okay

Commissioner Hodge: Okay, does that take care of that? Okay, how about ask for opponent testimony. If you'll come forward and state your name.

Ms. Magnuson: My name is Tamera Magnuson and I live at 4422 Bellows Drive in Ontario, Oregon.

Commissioner Hodge: And your name again?

Ms. Magnuson: Tamera Magnuson. (Ms. Magnuson explained that she had two letters from persons unable to attend the hearing to be added to the record. It was decided that the written comments would be read later in the hearing.) (It was also explained by Janet Maus that Ms. Magnuson was the spokesperson for the appellants and that herself and Mr. Maus would not be speaking; as such Ms. Magnuson was granted an extension of the 3-minute time limit.) Okay, so I just kind of have a little speech here and then I'll be done, okay.

Commissioner Hodge: Okay

Ms. Magnuson: This matter began in March when Mr. Seubert filed an application to include Mr. Bench's property in the Goal 5 inventory as a substantial site and a conditional use permit to mine the property. The persons living in the Bellows Subdivision filed an objection to the application and were told that the application was not complete and it had used outdated information as to the quality of the gravel. A short time later the application was withdrawn and Mr. Bench and Mr. Seubert filed an application for a line adjustment. The question is why did they do this, is it to deny those who filed the appeal the right to due process? We stipulate that is exactly the reason. On May 1st, Mr. Bench filed for a property line adjustment and again the application was incomplete and the property owners of the Bellows Subdivision filed an appeal based on the application incompleteness. This appeal was heard by the Planning and Zoning on June 23rd at the Ontario National Guard Armory. The property line adjustment was granted with no specific reason and an enormous amount of undocumented requirements of the application left unanswered. There were no formal property descriptions before or after the adjustment. No lienholder names or approvals. Incorrectly signed application with only part of the signatures. No county survey office review. No documentation at all. There was a lot of hearsay conversation from the committee, Mr. Scott, Owyhee Irrigation, but nothing was documented or substantiated. There were no assessor's office review. A request to be able to hear at the meeting was met with a lack of response. The meeting itself was like the application, very incomplete. The Planning Director granted the line adjustment for the committee. The commission itself made no finding based on substantial evidence adequate to support their findings. The planning committee stated that the appellants could only speak to the line adjustment and that sometime later at another hearing they could bring up the ramifications of the change. In the finding of facts, Mr. Scott states that he had an email from Mr. Seubert which stated that he would only take the gravel into the existing pit. This email was not part of the application nor was it brought out at the hearing. Since all the opponents who wanted to voice an objection on the line change for the processing of gravel and increasing the size of the existing pit to over 200 acres were told that they could not speak to anything but the line adjustment then why was the applicant allowed to state that the objective was to mine the property? Mr. Anthony, a member of the commission, was argumentative and hostile to the appellants' attorney. Mr. Anthony stated that he had done lots of line adjustments and that's all it is, so what's the big deal. Later he asked that if all the documents were signed will the appellants let it go or would they appeal. Mr. Seubert had not signed the application and Mr. Bench in fact had signed in his place. Mr. Bench said that no lienholder information was needed as he would be paying the lien off. Does a lienholder not need to know that his property is being reduced in size? Mr. Bench produced no proof that indeed the property lienholder will be paid off. There was no significant information in the documentation that the property in question would go through a title company and therefore be signed off, be paid off. The application referred to approximate acreage, but if it was surveyed and a deed drawn, then why was not the exact acreage given for each piece with a new legal description of each parcel? The commissioners argued about the Owyhee Irrigation Lateral that runs across Mr. Bench's property. Owyhee Irrigation said that the lateral and the water right would be taken care of after the line adjustment was made. Appellant's attorney questioned the setbacks for the Lateral and the road access to the Lateral, but Mr. Anthony stated that it has a right of way and nothing else is needed. However, Merle Maine breached that Lateral while he was mining in the same area so it is important. We stipulate that a Malheur County Court decision, Planning No. 2002-9-25-4 in 2002 gives precedence to a 1320 foot setback from the pit to Oak Road. We were also told in

that meeting that setbacks were a nonissue here. The creek that runs in the bottom of the draw was questioned. Owyhee Irrigation stated that they thought it is only runoff water. However, the creek has been there for at least 40 years, it runs most of the time, and Mr. John Phillips uses some of that supplement in his irrigation process. The application states that the property in question is Goal 5; in fact only the property north of the draw, approximately 9.5 acres, is in the insignificant Goal 5 resource. The property south of the draw, approximately 6 acres, is farm use only and in a letter we have signed from Jim Jennings at the LCDC (Land Conservation and Development Commission) he affirms that it is prime farm ground and it does have water rights. It is our contention that the hearing in front of the Malheur County Planning Committee was at the least contentious. We were not allowed to speak to the purpose of the line change, but the applicants were allowed to freely voice that the purpose is solely for the purpose of gravel. We further contend that by allowing the line change without determining the effects of expanding the existing pit that we are being denied due process. Allowing the line change will in all reality cause the existing pit to expand to a size of over 200 acres with the prospects of either another line change or Mr. Seubert actually purchasing the remaining property to mine. Mr. Bench is currently advertising the remaining 33 acres of the property as a gravel pit, having a mining permit, and being valued at over one million dollars. To sum up, the application should not have been given a hearing until and unless it was complete. The appellants were denied due process at the hearing and Mr. Scott should not have approved an application that he knew would increase the size of the already huge pit to 200 acres with all the unsightliness, health concerns, water concerns, noise concerns, and property value concerns at the very least. Now I have a copy of the Court document that sets the setback of 1320 feet for you if you'd like. And I also have a letter from Jim Jennings for you guys if you'd like.

Commissioner Wilson: Don't they have to just enter those as evidence, if they want to leave them?

Ms. Williams: Right

Commissioner Wilson: Give those to Alvin

Ms. Magnuson: Do you have any questions?

Commissioner Hodge: I don't; did you Larry?

Commissioner Wilson: Well, once again, I mean, we obviously weren't at the hearing but it sounds like everybody kind of had a chance to talk about everything but a lot line adjustment, both sides, I mean from what I'm hearing. And I guess the matter before us is strictly, at this point in time, it is for a lot line adjustment; it isn't for an approval for a gravel pit or anything.

Ms. Magnuson: The purpose of that lot line adjustment doesn't make any difference in a lot line adjustment? And if that's the case why is that on the application?

Commissioner Wilson: Why is what on the application?

Ms. Magnuson: The purpose of the lot line adjustment. It says general description of proposal, transfer approximately 14 acres for an aggregate site on a parcel that is listed in the Goal 5 Inventory.

Commissioner Wilson: What page are you reading off of?

Ms. Magnuson: The first page of the application.

Mr. Scott: I didn't give you a copy of that application.

multiple persons talking

Ms. Magnuson: Do you want a copy of it; I have it right here if you want to read it.

multiple persons talking

Commissioner Wilson: So does that have anything to do with the lot line adjustment...

Mr. Scott: No

Commissioner Wilson: ...in your opinion?

Mr. Scott: No

Commissioner Wilson: Okay

Ms. Magnuson: I guess my question is that if we have to apply for a lot line adjustment and we have to follow an application process, why is it not important that that application process be complete and thorough, and if we're asking for things in that that is not necessary why is it there?

Commissioner Wilson: I can't, maybe Stephanie can answer it, but I, what was not complete?

Ms. Magnuson: The application asks for lienholder information...

Commissioner Wilson: Okay, now my understanding was, I asked that question, and that's really not required.

Mr. Scott: The application form that we present is one that was designed by our office; it's not a state form, it's not a county form, it's just our form. We look at the application and when they have answered the questions we have we continue. Sometimes there are more answers and others there are less. We, like I said, what we have to do is meet the criteria that the County Code and the state ORSs prescribe. And that is what we did with the original application. The only thing that was overlooked, I will agree that Mr. Seubert did not sign it and that was just an oversight which was easily corrected. Lienholders, that's on there so that they specifically understand that they need to contact them and we won't, when we issue approval the deeds have to be recorded and that means that there has to be a title search and at that time there won't be deeds recorded if there's clout in the title. So that is basically there as a reminder to the applicants that they need to do that. We don't normally deal with the financial side of the...

Commissioner Wilson: I was going to say, I mean, that's my business is real estate and unless you get a partial release or payoff, I mean, it's really not relevant to the lot line adjustment,

because (inaudible) approved, it's still up to Mr. Bench or you know, the owner to satisfy that or he can't sell his property and that's really nothing that has to do with...

Mr. Scott: Some of those reminders are placed there strictly as a courtesy to the people that are doing this so they will be able to follow what the law prescribes even though it does not pertain to what we do.

Commissioner Wilson: And then, I had a couple other, my understanding was that Jay Chamberlin from the Owyhee Irrigation didn't have, I mean was there any opposition or questions from, that the Owyhee Irrigation said they would have to approve? Or were they okay with the process?

Commissioner Hodge: Didn't they say it would all be done after the lot line adjustment? Or that's what you read I think.

Mr. Scott: Well yeah, the irrigation delivering water rights must be approved by the Owyhee Irrigation District so before they can do anything they need to have a plan in place so they could, because these people are entitled to their water.

Ms. Magnuson: Right, the water is our water coming through there so you do have (inaudible)

Commissioner Wilson: But I mean they're not going to be allowed to cut that off or alter it in any way

Mr. Scott: No

Ms. Magnuson: But we didn't see any documentation that said that would occur; all we've heard was yeah we're okay with it.

Commissioner Wilson: Well Jay Chamberlin is head of Owyhee Irrigation, that's about as high up as you can go to get an opinion. If he said that it wasn't going to be a problem, I don't know where else you'd go to get satisfaction. I did have a question, what's Warm Springs have to do with this? It said they wanted to review prior to recording of the deed.

Mr. Scott: That's a typo then.

Commissioner Wilson: It's on, somewhere in here,

Mr. Scott: I believe that was in the original application and that was a typo, it was changed to Owyhee

Commissioner Hodge: So Warm Springs has nothing to do with it.

Commissioner Wilson: Yeah, number 14 it says Warm Springs Irrigation requests a review prior to....

Mr. Scott: And we corrected that typo so that it reflected Owyhee rather than Warm Springs

Commissioner Wilson: Okay

Commissioner Hodge: Because this one show Owyhee water district

Commissioner Wilson: but right there, Warm Springs

Commissioner Hodge: oh okay, Warm Springs

Commissioner Wilson: So that was a typo

Commissioner Hodge: And it can just be taken out

Mr. Scott: You're right, it is there

Commissioner Wilson: Because I didn't think that's in their district, but

Mr. Scott: No

Commissioner Wilson: Well I know that they, somewhere I heard that they said that they would have to install a new head gate or delivery device, I'm not sure what, but they don't go in and do it prior to...

Ms. Magnuson: They don't have it planned prior to any of...

Commissioner Wilson: Well no, and they have to wait and see if the parcels are adjusted before they, to see if they have to do anything

Mr. Scott: Right

Ms. Magnuson: Okay

Mr. Scott: And there's certain times of the year that they do that, I believe, just because the waters there and they can't...

Commissioner Hodge: I was going to say, probably late fall or early spring is when they can get out there and do their work.

Mr. Scott: And that's one of the reasons they like to be notified so they can get that on their schedule so it'll be done in a timely manner, you know...

Commissioner Wilson: I just want to make sure, it looks like, at least from what I'm seeing, I've got a list here, I hope all of them that you guys asked about. No property description of parcel 1 before and of parcel 2 after were, what was that one, has that been, is that met or do they have to wait until that's actually approved so that they can create the parcels?

Ms. Williams: David Butler and ALS Surveying presented the deeds the morning of the hearing; they were faxed to Mr. Leuenberger.

Commissioner Wilson: Okay, so that,

Ms. Williams: The proposed deeds are in the Planning Department file which is part of the record, so the email from Mr. Seubert to Alvin Scott is part of the Planning Commission file, it's public record, it's part of the record being made throughout this whole time, so it is appropriate evidence; letters, oral testimony from Mr. Bench about the mortgage being paid off, it's appropriate testimony, it's weighted, it can be given credit, the same with Mr. Chamberlin's testimony.

Ms. Magnuson: Okay. I didn't understand that. I thought it needed to be documented, but evidentially it is documented in the hearing.

Ms. Williams: Yes, it's part of the record.

Ms. Magnuson: Okay

Commissioner Hodge: Is there anybody else, or you're speaking for everybody that was out here?

Ms. Magnuson: Except for Bill, I think Bill wants to speak.

Mr. Batcheller: I'd like to say something.

Commissioner Hodge: Okay, if you'd like to come forward and state your name

Mr. Batcheller: Bill Batcheller. Is this gentleman from the newspaper?

Unknown: Yes

Mr. Batcheller: Well I have some technical data on the emissions and I have my phone number on there; I'll just give that to you instead of the Court.

Mr. Braese: Thank you sir.

Mr. Batcheller: I'm the oldest resident, the first house in the Bellows Subdivision, for 45 years, now, okay, the lot line adjustment, I couldn't hear what was going on but you say it doesn't pertain, whatever, I haven't been allowed even with hearing aids to participate because I can't hear anything in the zoning meetings, and neither can anyone else, I guess it's been covered, I don't know, I can't hear. It's my fault, I apologize for not putting them in this morning. My wife is the oldest, I don't know, has the longest term exposure to the emissions from the asphalt plant and the gravel pit. She's a prime example of what's happening to all of us. I treat for skin cancer, malignant. My boy had polyps, the oldest boy, I haven't tested the other boy, my grandkids have grown up in this stuff. The cancer doctor for my wife, what I'm saying is I'm opposed to anything that would enhance the life of this gravel pit. I don't care, lot line, you can call it anything, whether it pertains, it does pertain. This gravel pit should never have been located on top of the Ontario aquifer. If you, if this gentleman will contact me later, I will show him the hydrology report for Malheur County, I will show him the results from Lindsay, the hot zones, don't blame it on Skyline Farms, they shut down for years and my arsenic levels are still

coming up and the hot zone is Ontario, it is not, it's the low level. The Malheur River is no protection, that aquifer goes right under that thing. And, I had a question for these gentlemen: why does that State of Oregon and a lot of the contractors, why do they reject your concrete? What kind of contaminants were in that?

Mr. Seubert: They haven't rejected our concrete.

Mr. Batcheller: Well this was a while back and I don't know whether it's still in effect, like Boulan, Little and some of these contractors would not buy concrete from you anymore because it had contaminants; what were the contaminants?

Mr. Seubert: There wasn't any contaminants Bill.

Mr. Batcheller: The State of Oregon did not buy cement for a period of time from you.

Mr. Seubert: That's not correct.

Mr. Batcheller: You don't know anything

Mr. Seubert: No. It's not correct.

Mr. Batcheller: That's not correct?

Mr. Seubert: That's not correct, they're buying...

Mr. Batcheller: Well correct me.

Mr. Seubert: They're buying products from us, I don't know what you're talking about.

Mr. Batcheller: I can't hear, but

Commissioner Hodge: He's saying they are buying products; the State is buying products from him.

Mr. Batcheller: Now. I want to know what happened before. Well, this is a different issue. Okay. Okay. All I'm requesting, it wouldn't do any good though the Court but there has to be an accountability. These people blame Merle Maine, Merle Maine blames them, in the meantime people are dying. I think we haven't had a death for a month, respiratory problems, and what else, how old was Steve? But, we have no history of cancer in our family or my wife's side of the family or anything and all of a sudden all of us are coming up with it, all the polyps, the precancerous stuff, and this paper that you have, if you'll read it, explains why. Okay, I'll end this thing pretty quick. My wife's cancer doctor explained that he can't blame her cancer on these things directly but he can say that all these ingredients listed in that paper enhance cancer, so promote cancers. So, what he was saying is I will say without reservations what he told me that your wife would not be in this stage of her cancer and very probably would not have an issue with cancer in her lifetime. It took her cancer he figured about 7 years to progress to get to the stage it is; she's terminal. I would invite you Dan, you'd have to get out in the field, I would invite you to my house to meet my wife; I want you to come up and look and see. What I have

opposition to here is, the problem with the arsenic and the water in Ontario is primarily the reclamation that they're doing now, is they're using these contaminated piles, these, the silica, sand, that a lot of operations require that they remove from water sources, take off site; they take heavy equipment and spread it in contact with the water and over the top of the water. I'm talking thousands of yards, mountains of this stuff. They have set the stage for the end of our Ontario aquifer. Somebody's got to do something about it; you're in a position of authority. I'm not so sure there hasn't been enough damage done that you just as well kiss the aquifer off. I don't know, but that's Ontario. There's an awareness thing. This is a pretty small group, I would hope that this gentleman maybe would address this issue. That's it....

Commissioner Wilson: I just have a question. I've got arsenic in my water, and we have to test for every rural property we sell.

Mr. Batcheller: Where do you live?

Commissioner Wilson: About 1.5 mile, 2 miles, south of Cairo.

Mr. Batcheller: Okay, yes.

Commissioner Wilson: And, I mean, I sell all over the county, and these are volcanic soils that are just natural...

Mr. Batcheller: I'll tell you about natural...

Commissioner Wilson: ...some areas have more than others, it isn't from,...

Mr. Batcheller: You want me to explain

Commissioner Wilson: Well let me finish

Mr. Batcheller: Okay

Commissioner Wilson: They have to be tested but I'm not aware, why wouldn't Ontario have filed a complaint against the larger parcel if it's damaging their aquifer?

Mr. Batcheller: It's a business as usual, economic issue here, I mean they've been operating the same way, why....

Commissioner Wilson: The lot line adjustment, if we're just looking at that isn't going to have any effect on the arsenic level...

Mr. Batcheller: If you live there at Cairo you are in the aquifer that these people are sitting on top of. Have you ever viewed the hydrology report for Malheur County?

Commissioner Wilson: No, but when I had my well tested Joe Stirm witched it and said my aquifer goes from the Snake River towards Mitchell Butte, and I said don't you think it goes the other way, and he said no. So, but I didn't look up aquifers.

Mr. Batcheller: When you have a wife dying of cancer you spend a lot of time on a computer wondering why; you get quite an education on what we have here. We have what we call a pressurized system, this is a stair step aquifer that comes down in the valley. The Malheur River and things of this nature, Snake River, big water source but not pressurized. Those wells around Ontario and Cairo are fed by the aquifer they're setting on. I have photographs, all along I've taken photographs, water level, you know, water tests, I have all kinds of shit. I'm having it all reviewed. I figure this is not the answer, somebody will take this issue on. I'm knocking on every door I can think of; it's enough, I go home and take care of my wife, watch her die, this is bullshit, and we have screamed about this for years saying it was coming and no one's done a thing about it. You were up there with Russell Hursh and you don't remember.

Commissioner Hodge: No I wasn't up there because I'm not the judge

Mr. Batcheller: Yes you were

It was discovered that the name plate on the desk in front of where Commissioner Hodge was seated was in fact Judge Joyce's name plate and this was the source of confusion for whom Mr. Batcheller thought he was talking too.

Commissioner Hodge: I'm Don Hodge, not the judge.

Mr. Batcheller: Ooooh, I'm sorry, I'm sorry Don, I apologize. I haven't seen Dan for years.

Commissioner Hodge: Well I feel bad for you for your wife, but I think, you know, if what you read in the paper, it's like the whole Malheur County's got arsenic problems.

Mr. Batcheller: Could I address the issue that Larry had?

Commissioner Hodge: What was your issue?

Mr. Batcheller: And I'm going to use mine for an example, the first water test I took was .014 parts per billion for arsenic. Okay, that's barely above the federal EPA (Environmental Protection Agency) allowance.

Commissioner Hodge: At a time it was under the allowance.

Mr. Batcheller: Yeah, it was a .05 way back, yes, okay

Commissioner Wilson: Yeah

Commissioner Hodge: But I think, what was the federal allowance at one time...

Mr. Batcheller: .05

Commissioner Wilson: 50

Commissioner Hodge: 5, 50 parts per billion, it changed...

Commissioner Wilson: It changed, I drilled my well January 3, 2003 and it changed on the 1st

Mr. Batcheller: What it was is .05 parts per billion, but that changed, they put .01. Well I'm over the .05 anyway, it doesn't make any difference on my well. From the time earth was created until I took my first water test, which was five, six, years after Stevenson started that gravel pit I got to a .014. I am now at .056. Now Skyline Farms shut down operation and their fertilizers took a lot of heat for this arsenic and all, when they quit, and they quit for years, and they didn't irrigate, my levels kept coming up. Now what I'm saying is, okay natural occurrence, that doesn't hold water if you're talking about from the creation of earth until my first water test was a .014 and now I'm at a, I'm talking 45 years later, I'm .056. Now we had a spike in there somewhere and you can't tell me that that's natural occurrence.

Commissioner Wilson: I didn't say it was. I don't know that much about it, all I know is I know enough about it on how you have to test for every property. They don't ask for you to do annual tests or anything like that and I'm not aware of, I can tell you places that we sold a house over on N. 3rd Street out of Nyssa on Arcadia, the guy was like .09 whatever, 1 below the 10; the adjoining property they tested, the wells were about 75 feet apart and his was like 80 something so go figure.

Mr. Batcheller: Well the depth of the well and length it's been there, you have to understand that...

Commissioner Wilson: But that really

Mr. Batcheller: Impervious layer, this protective layer, it's just bullshit, it's not, if they were impervious we'd just have springs and we would not have ground water, but you know, just shooting out the hillside. But it does penetrate, you penetrate it when you drill a well, the longer the well sits there, it's like a funnel, that arsenic is going to seek the low level, it will go down in your well and accumulate, so the longer the well sits the more arsenic you get in the well, but where the arsenic is going is under the City of Ontario, it's not...

Commissioner Wilson: I don't know that, unless you're an engineer on this, I don't know, and I was on that Planning Commission off and on for I think around 14 years and every time we added on, I don't know how many, Goal 5's and gravel sites all over the County and not once did arsenic levels every come in to, wasn't a factor from the State, so I don't know what this has to do, rather than sit here and argue about it over a lot line adjustment that isn't going to change the arsenic...

Mr. Batcheller: They'll have more gravel to continue operations, I don't care what you call it...

Commissioner Wilson: that's for another day Bill...

Mr. Batcheller: ... for 50 years, you know this is an old dinosaur...

Commissioner Wilson: that's for another day though....

Mr. Batcheller: ... EPA says 15-20 years life expectancy on a gravel pit. Do not put it on top of an aquifer. My problem is, the whole point of my issue, do not use reject material rich in

arsenic, I mean, the arsenic is there, they just release it when they crush the rock, it's ready to go into the water, it's going to seek the water source but it does travel in the air and this crystalized silica when they do the crushing. Okay, all I'm saying is it's, Ontario's bitching about their problem; if he will let me compare those (inaudible) maps to my hydrology report, that's all Oregon hydrology report, then I can show you the hot zone; you're in the hot zone, the City of Ontario is.

Commissioner Hodge: Bill, I think that's, we're at our time limit

Mr. Batcheller: I'm opposed to the gravel pit where it is still in operation after 50 years, which is a bullshit scenario, people are starting to die, I mean I don't know, when's Dan come back? That's what threw me for a loop because I used to know Dan and I just assumed you were Dan.

Commissioner Hodge: Well he still looks like he did last week and the week before.

Mr. Batcheller: I haven't seen him for years.

Commissioner Hodge: Well, I tried to tell you I wasn't out there so

Mr. Batcheller: Well I apologize for the heat there, I guess that's all I have, I'm just saying, like, I know that the day that I die and long after the wife dies that these guys will still be emitting this stuff.

Commissioner Hodge: Okay, if you'll go back to your seat

Mr. Batcheller: Well I can't hear the rest of it, I'll head out and take care of the wife, but like I say, apologize Larry, I didn't mean to get argumentative but you have to realize the situation I'm going through. I have to help my wife, her balance is terrible, I change her colostomy bag, I open the door to take her to chemotherapy and wham I get hit in the face with that goddamn asphalt smell, I tell you, come up to the house, I'll invite you up to my house, I want to show you what it's like. Could I say one more thing?

Commissioner Wilson: If it's short.

Commissioner Hodge: If it's short.

Mr. Batcheller: They're going to request that they can run that crusher 24/7, I mean that's where we're going, we've been through this shit before. It isn't that they have to use a crusher somewhere else, what's going to happen is if you go out at 7:00 in the morning and you can wipe a 4-wheeler seat or a tractor seat or something like that and you see how much dust that is accumulated on it. Well that night you can wipe it again, not a whole lot during the day time, but you go out in that eight hour period that you're sleeping and you wipe it and that's when they can really crank that baby up and turn the water sprays down and do some damage because they've got the cover of darkness so they know exactly what the hell I'm talking about, I've been living in this shit for 45 years.

Commissioner Hodge: Well again, like Larry said, that's for another day, so thank you for coming.

Mr. Batcheller: Okay, for what it's worth they flooded my basement by recharging a ditch, I billed them and stuff, I never got a response from them...

Commissioner Wilson: Bill, that doesn't have anything to do with this, nothing at all...

Mr. Batcheller: The continuation of what they're running?

Commisisoner Wilson: No

Mr. Batcheller: That's what it's all about

Commissioner Wilson: It's just your claims from some other day and that has nothing to do with a lot line adjustment, so, sorry but...

Mr. Batcheller: Well, I guess not but, Larry if you guys are real dedicated and Don, I want you to come by my house, meet my wife, and I want to show you what's going on here, what you're promoting, what you're feeding here, the life of. I'm gone.

Commissioner Hodge: Okay, have we got anybody else that wants to speak? Yes sir, if you'd like to come up here and put your name in.

Mr. Maus: My name is Charles Maus, I live at 4427 Bellows Road. I am fully opposed to any expansion of the gravel pit for several reasons. One main reason is everybody that lives in Bellows Subdivision you might say have everything tied up in their homes. And here's a gravel pit that wants to build right in your backyard or your front yard and that. You take Ontario Heights Road, go up to Community Road, that is from Foothill and after you get on top of Ontario Heights Road you look to your right and see what a gravel pit looks like. It's a great big hole in the ground. You take, go around to Community towards Stanton Blvd. and you look and then you see a gravel pit that has been used and what is it? It's a mess. It takes down the looks of the neighborhood and that. They're digging so much dirt and not getting that much gravel and that. I talked to Mr. Bench twice, one time I asked him, I said where is the gravel pit going to be at? He told me that stake just past the power pole. Here awhile back I talked to him again, I said where's the gravel pit going to be at? He said the stake down lower. Where is the gravel pit going to be at is the question. I can't get a straight answer and that.

Commissioner Hodge: Well does that got anything to do with the lot line adjustment?

Unknown: Yes

Mr. Maus: If the line is one place for one person and another place for another, then that has something to do with the line adjustment. The people that are being involved in this need to know.

Commissioner Hodge: Well Alvin, you're kind of frowning, has the lot line, have you been out there?

Mr. Scott: Yes

Commissioner Hodge: And you know where the lot line adjustment, where they want it?

Mr. Scott: Basically yes.

Commissioner Hodge: It's clearly marked?

Mr. Scott: Well it's marked on the map, I mean, you know, it's defined. And again, just to remind the Court, that's what we're talking about, where the gravel pit is going to be, if it is approved, which it has not been, is not the question that we have here today.

Commissioner Hodge: Exactly. The question here today, as I understand is a lot line adjustment right?

Mr. Scott: Right

Commissioner Hodge: So that has to be another day, another hearing.

Mr. Scott: I explained to Mr. Maus's wife that they would have the opportunity, they'd be notified if and when the excavator company applies for an extension, expansion, and they would be notified and they'd all be allowed to make their case then, and that, you know, the way Oregon law is, Seubert's can own that property and it can just sit there and do nothing, or they could farm it, I mean, you know, as it is now, so that's basically, we assume that they want to expand the gravel pit and I'm sure that's a good assumption but they haven't got that right yet, so maybe it'll never happen.

Commissioner Hodge: Yes ma'am

Commissioner Wilson: Step up and give your name

Commissioner Hodge: We're going to have to get this, wind this thing down, so

Unknown: So we will get a rebuttal is that correct?

Commissioner Wilson: Yes

Ms. Maus: My name is Janet Maus, I'm Mr. Maus's wife, 4427 Bellows Subdivision. I want to clarify what he's trying to tell you. There are two sets of survey stakes, so there is a set in close to the draw, then there is a set farther south of that, and what he had asked is which one is it? He's gotten two answers, one is the pit will be closest to the draw and then the other one is the pit will be closest, be farther south than the draw, so that's what he's questioning is the two markers.

Commissioner Wilson: Well this particular line hasn't been surveyed yet.

Mr. Seubert: It has been.

Commissioner Wilson: It has been?

Ms. Maus: It has been.

Commissioner Wilson: Okay, well I know that it wasn't required for a lot line adjustment so I didn't know that it had been, so at any rate...

Ms. Maus: And the surveyor put the stakes there, so we don't know which ones. Thank you

Commissioner Hodge: Okay, are we going to summarize?

Mr. Scott: I have two letters here, actually I have three letters but one was from Mr. Batcheller and since he spoke I think he said everything that's in the letter.

Commissioner Hodge: Okay

Mr. Scott read the written comments from Fred and Golda Schuett: The property line adjustment between Seubert and Bench gives some grievous concerns as to whether this would remove "farming only" to grant excavation for gravel mining. 1. The concerns would be the closeness for homes in our subdivision and the decline in property value. 2. The excavation with such deep walls would be dangerous to children who shouldn't trespass but do so anyway. 3. The depth of excavation could have drastic effects on local wells in the subdivision. 4. The increase in unhealthy, contaminated and smelly emissions from the asphalt plant are terrible. 5. The devastation of the beauty of the area is very unsightly. 6. The destruction of animal habitat and local deer. 7. The increase of heavy machinery tearing the ground apart and its noise. Also the increase of trucks and they are always in a hurry. We hope and pray the line adjustment is not granting permission for gravel mining so close to our beautiful and peaceful subdivision.

Mr. Scott read the written comments from Sandi Abegg and Rita Keegan, 4408 Bellows Drive: We are writing a letter of support for the appeal against the property line adjustment that Seubert and Bench have proposed. We are of the opinion that property line adjustment will eventually lead to actions that will jeopardize the integrity of our neighborhood. We believe such an action will ultimately disrupt the peace, stability, health of people and our surroundings - overall, adversely affect the quality of life here in our area. Listening to the concerns of our neighbors, as well having the conviction ourselves that this action will in due course detrimentally affect us all, we add our support to those attending this hearing who appeal the above order.

Commissioner Hodge: Okay, the letters have been read into the hearing. Now, is there any other summary? Now, we can ask for rebuttal by proponents or opponents; so if you would like to speak.

Mr. Bench: Kelly Bench. I've been working on a letter for a couple days and some of it gets pretty entertaining as far as I'm concerned and it could actually apply to a cartoon. So, and Tamera's letter was very informative to me, I didn't know most of that, I really didn't know that I was advertising my place for a million dollars as a gravel pit - that was pretty entertaining, I mean I've had the place up for sale for a year and I didn't even know that. You know, I've got a list of everything that she said and you know, it seems like in this day and age we're afraid to say something and I'll just come out and say it, it's a lie, it's just flat lie. I don't know where she gets her information and where she's coming from but it is something out of a romance novel or something. And that's the short. I can go down each one of them and say how they're not true and, you know, in the letter that I wrote up, on June 4th I sent a letter to the people, the Planning

Department property line adjustment list, I had a few neighbors notify me that they received the letter. The letter explained the additional 4 acres of 14 acres of the property line adjustment is a buffer to keep distance from horrible neighbors. Only after a conditional use permit from Malheur County can the gravel from the DOGAMI (Department of Geology and Mineral Industries) approved Goal 5 9.5 acres north of the trees be harvested. None nor not any of the rest of the acres can be harvested for gravel without due process. So, we have gone through this information over again just that paragraph. And how come they don't hear it? All of them have hearing problems like Bill Batcheller, but, I don't understand, and then Mr. Maus, I did talk to him a couple of times and one of the things that I became aware of real quick is they did not have an understanding of what was going on. So, I'll try to find the right paragraph on what I wrote up, but, so if the ring leaders, which would be mostly this group, need a continuance how they can go, needed a continuance because they needed time to review the application, then before that, months before that, how could they go around telling the neighbors what was going on? They never talked to me or Mr. Seubert, it seems they would believe we would lie to them or be angry with them. There's not 200 acres in the pit - isn't that correct?

Mr. Seubert: I don't think so. I'm not sure exactly what the acreage is.

Mr. Bench: And the application being complete, we've gone around and around on this application being complete. Is the application complete?

Mr. Scott: You've submitted the information that I requested.

Mr. Bench: Okay, so, and then Bill Batcheller, I've got a hydrology report that says the opposite of what he just said. You know mine is, I think it's a book, it's actually a book on the flow of water, you know, and how many feet down it is, and the aquifers, and all that kind of thing. I feel bad about Bill and his situation, he's talking about cancer, he was smoking outside the building when I walked up. And I get dust all over my stuff on my place, I'm closer to the gravel pit and everything else and I know that dust is from the farm field that I have across the road (inaudible) leaving the dust around my shop. Let me see if there's anything else, I didn't sign in place of Nick Seubert. I think the lien hold has been covered. There is a survey. We had a survey done right off the bat. We talked with Jay Chamberlin, I think that's correct, after the Planning Commission meeting and we talked about what we were going to do about the irrigation and so that issue is very open communication between us and him. Where in the world she gets a 220 foot setback, and as far as the creek, it's not a creek, it's a drainage ditch which to my understanding is being protected by DOGAMI so it would be okay for me to say that DOGAMI is not going to allow that to be disrupted. It is a drainage ditch, it doesn't run year round, it dries up in the winter; I mean it's on my place, I can go out and look and there's no water in it. Let's see, and as far as the stakes, there's only one set of stakes and the stakes were put in by the surveying company. I showed Mr. Maus where they were; I said, there's the stakes. There isn't two sets of stakes. So, let's see, it was interesting what they did, they have gone throughout the area asking residents if they know what we're doing and then tell the residents their accusations, which are not proven, not accurate, and jumping to incorrect conclusions. They have been intimidating the community with you will support your neighbors won't you and requesting money. They have suggested that property prices will drop, the gravel pit will poison the wells, the noise will be deafening, the trucks will drive on Oak and Bellows; the biggest percentage of the trucks and the traffic on Bellows is the county road department and equipment. I mean I can watch them go by, I don't have a problem with that. The dust will be unbearable,

the smell is too foul; I don't ever get any smell from that gravel pit and I'm way closer than some of them and I don't smell anything from it.

Unknown: There's lots of smell, lots and there's a fog bank that comes across our place, you're far enough north Kelly you don't get it but we do.

Mr. Bench: Okay, so let's see, okay so some years back the Bellows community came and saved the Fenicottero's from Merle Maine who was taking gravel out of the 9.5 acres. He crossed the property line and they supported Fenicottero's and Fenicottero's didn't really like the community, they didn't like the Fenicottero's but they were involved in that. Okay, so, did taking, so some of the gravel from the 9.5 acres has been taken out. Did taking this gravel from the 9.5 acres kill anyone, cause deaths in the community, poison the wells, lower property prices? No it didn't. And taking the rest of the gravel out of the (inaudible) won't either. Okay, so I was living there when they were working the ground where the gravel pit north of the 9.5 acres and I would have not even known that they were doing it if I hadn't have gone over and looked. So, and it's not going to change property prices, it's going to be north of the tree line, they're not going to even notice that they're there. I don't understand where they're coming from.

Commissioner Hodge: Well I think we need to conclude this. I'm going to close the public hearing, so now when we close it there's not - yes ma'am?

Ms. Magnuson: Can I just add one more thing to the exhibits?

Commissioner Hodge: How long is it?

Ms. Magnuson: This is just a realtor listing that Kelly Bench has on the internet which is where I got the information.

Commissioner Hodge: Okay

Unknown: I've seen it. He's got it on several sites.

Commissioner Hodge: Okay, well Alvin's got it now. Closure of the public hearing, so there's no public testimony can be heard at this point.

Commissioner Hodge asked for deliberation by the Court members. The Court members discussed the matter between themselves and County Counsel. Ms. Williams explained if the Court members would make a tentative decision then she would draft findings of fact and an order for their review at a later date. Commissioner Wilson indicated that the matter at hand is a lot line adjustment; the gravel pit matter and concerns would be addressed through a different process. Additionally, he had grown up by a gravel pit and lived close to the asphalt plant by Nyssa. Commissioner Wilson explained that he did not see any valid reasons or evidence to overturn the Planning Commission decision. Commissioner Hodge stated he was in favor of upholding the Planning Commission's decision also. The Court made a tentative decision to uphold the Planning Commission's decision approving the lot line adjustment. An order with findings of fact will prepared and presented in two weeks.

Mr. Braese left the meeting.

### **ENVIRONMENTAL HEALTH STAFF VACANCY**

Authorization to fill a recently vacated Clerk position in the Environmental Health office was requested. Consensus of the Court was to proceed with advertising/hiring for the position.

### **COURT MINUTES**

Commissioner Hodge moved to approve Court Minutes of August 24, 2016 as written. Commissioner Wilson seconded and the motion passed.

### **ADDENDUM TO AGREEMENT WITH ULMER**

Commissioner Wilson moved to approve First Addendum to Architecture and Engineering Professional Services Agreement Elevator/Vertical Material Lift Malheur County Courthouse. Commissioner Hodge seconded and the motion passed. See instrument #[2016-3048](#)

### **OWYHEE LAKE ROAD FLAP**

Ms. Williams explained that the planning project for Owyhee Lake Road through the Federal Lands Access Program (FLAP) agreement had increased from \$125,000 to \$155,000; a 10.27% match is required so the County's match requirement has increased from \$12,838 to \$15,918. The original match funds were taken out of the Economic Development budget. The Court discussed the project. The original FLAP application was for construction improvements of Owyhee Lake Road; the County was not awarded construction dollars but was awarded a smaller grant for planning efforts to enhance Owyhee Lake Road. The Court also discussed terminating the easement for Owyhee Lake Road and turning it back to Bureau of Reclamation. After lengthy discussion the matter was tabled. A decision on committing the additional match dollars for the project was not made and the Court was not agreeable towards committing more funds to the planning project.

### **UPDATES TO COUNTY POLICIES**

Commissioner Hodge moved to approve updated County Policy 101 - Prohibition of Harassment Including Sexual Harassment and Anti-Discrimination Policy. Commissioner Wilson seconded and the motion passed. See instrument #[2016-3049](#)

Commissioner Wilson moved to approve updated County Policy 204 - Time and Attendance. Commissioner Hodge seconded and the motion passed. See instrument #[2016-3050](#)

### **CROSSING PERMIT**

Commissioner Wilson moved to approve Crossing Permit #24-16 to Tesoro Logistics Northwest Pipeline LLC to repair a section of pipeline that is located within Tesoro's easement that crosses Lockett Road #730. Commissioner Hodge seconded and the motion passed. The original permit will be kept on file at the Road Department.

### **COURT ADJOURNMENT**

The meeting was adjourned.