

MALHEUR COUNTY COURT MINUTES

December 18, 2019

The regularly scheduled meeting of the County Court was called to order by Judge Dan Joyce at 9:00 a.m. in the County Court Office of the Malheur County Courthouse with Commissioner Don Hodge and Commissioner Larry Wilson present. Staff present was Administrative Officer Lorinda DuBois and Planner Eric Evans. Notice of the meeting was posted on the County website and Courthouse public bulletin board; and emailed to the Argus Observer, Malheur Enterprise, and those persons who have requested notice.

BUILDING DEPARTMENT- HOMELESS TRANSITIONAL SHELTERS

Building Official Adele Schaffeld met with the Court. Ms. Schaffeld explained a request had been received to waive the electrical permit fees for the City of Ontario Homeless Transitional Shelters project. Twenty-one (21) shelters are proposed; each shelter will have its own permit as each has its own sub panel. The project requires an A Level electrical inspector perform the inspections; the County currently contracts for this service and per the contract 80% of the permit fee goes to the contractor that provides the inspection service. Ms. Schaffeld explained she will proceed as the Court directs. It is not best practice to waive a fee as the department is solely funded by permit fees and this provides fairness to all applicants. After discussion, consensus of the Court was to not waive any fees. The Court requested Ms. Schaffeld relay the decision to the City.

EMPLOYMENT AGREEMENT – HARRIMAN

Commissioner Hodge moved to approve Lieutenant Malheur County Sheriff's Office - Employment of PERS (Public Employees Retirement System) 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 for the period January 1, 2020 through December 31, 2020. See instrument #[2019-4641](#)

LEASE AGREEMENT - CITY OF NYSSA

Commissioner Wilson moved to approve Lease Agreement - Office Space Usage for County Inspection Services & Staff in the Offices of the City of Nyssa. This is a five (5) year lease for office space for the County Building Department. The agreement expires December 31, 2024. See instrument #[2019-4643](#)

SUPPLEMENTAL BUDGET

Commissioner Hodge moved to approve Resolution No. R19-37: In the Matter of Fiscal Year 2019/2020 Supplemental Budget by Resolution Under Local Budget Law ORS 294.471. Commissioner Wilson seconded and the motion passed unanimously. The purpose of the supplemental budget is to allocate Reinvestment funds from Community Corrections that were not anticipated when the adopted budget was prepared - the funds will be used to eventually purchase a new control panel for the Jail; to allocate Measure 57 Supplemental funds from Department of Corrections that were not anticipated when the adopted budget was prepared - the funds are to be used per the agreement between the State and County; and to allocate additional General Fund Transfer funds that were not anticipated when the adopted budget was prepared - the funds will eventually be used to purchase a new Jail control board. See instrument #[2019-4642](#)

CROSSING PERMITS

Commissioner Wilson moved to approve Crossing Permit #32-19 to Idaho Power to replace a pole on Cedar Road #945; Permit #33-19 to Idaho Power to replace a pole on Grove Road #920; and Permit #34-19 to Idaho Power to replace a pole on Jacobsen Gulch Road #1067. Commissioner Hodge seconded and the motion passed unanimously. Original permits will be kept on file at the Road Department.

SECOND PUBLIC HEARING - ORDINANCE NO. 222

Judge Joyce opened the second public hearing for consideration of Ordinance No. 222: An Ordinance Adopting Temporary Specialty Code Provisions for the Malheur County Building Program; and Declaring an Emergency. Notice of the hearing was published in the Argus Observer, posted in the office of the Building Department, posted at the Courthouse, and posted on the County website. No public comment was received. Judge Joyce closed the hearing. Commissioner Wilson moved to approve Ordinance No. 222: An Ordinance Adopting Temporary Specialty Code Provisions for the Malheur County Building Program; and Declaring an Emergency. Commissioner Hodge seconded and the motion passed unanimously. See instrument [#2019-4640](#)

ENVIRONMENTAL HEALTH

Environmental Health Director Craig Geddes met with the Court; Mr. Geddes requested authorization to contract with Melissa Ney for temporary services to perform restaurant inspections in Baker County and Malheur County for the first inspection cycle of 2020 (January 1 to June 30, 2020). The Environmental Health Specialist position in the department is still vacant; applications continue to be sought and interviews continue to be held. Consensus of the Court was to proceed with a contract for temporary environmental health specialist services with Ms. Ney. Mr. Geddes and the Court discussed the qualifications of the vacant position and difficulties in filling the position.

APPEAL OF PLANNING COMMISSION DECISION

Planner Eric Evans met with the Court and requested direction from the Court regarding a Notice of Appeal filed by Donna Shenk in regards to the Planning Commission's approval of a conditional use permit application for two non-farm partitions and two non-farm dwellings. Planning Department File No. 2019-10-006. Mr. Evans explained that the Planning Commission heard the matter on November 19, 2019. Notice was published in the Argus Observer on November 1, 2019 and sent to all property owners within 750 feet on October 29, 2019. On October 30th, an additional Notice was sent to the same property owners correcting the date of the hearing from the 20th to the 19th. The Appellant states she attempted to attend the Planning Commission meeting on November 20th as stated in the first Notice she received; she states that she did not receive the second notice correcting the meeting date. Reasons for appeal include: cannot be shown to benefit the community or the county as a whole and that the community is suitable for its historic use of farming; will create a strain on civil services to include the Homedale Highway District, water, law enforcement, medical services, school district, and fire services; the unfarmed lands act as buffer zones for wildlife conservation; there is not substantial evidence to support the conditional use permit; and the appellant wants the opportunity to have input and provide information.

Mr. Evans explained that the Court is the appellate body for decisions of the Planning Commission and that appeals are to be based on the record made before the Planning Commission. However, County Code does allow for a de novo hearing if the applicant provides information that shows good cause.

The Court can proceed with the appeal on the record; proceed with the appeal de novo; or remand the matter back to the Planning Commission. Mr. Evans recommended the Court hold a de novo hearing on the matter. Commissioner Hodge moved to approve Order No. GO-14-19: Order for de novo Hearing Before the Malheur County Court on Appeal from Decision of Malheur County Planning Commission Granting a Conditional Use Permit for Two Non-farm Partitions and Two Non-farm Dwellings for Bruning (Assessor's Map 23S47E tax lot 200 ref. #11043) (Planning Department File #2019-10-006); and Setting Date and Time for Appeal Hearing. Commissioner Wilson seconded and the motion passed unanimously. The appeal will be heard by the Court on January 15, 2020; and notice of the appeal will be provided to all parties and property owners as set forth in the County Code. See instrument #[2019-4639](#)

COURT ADJOURNMENT

The meeting was adjourned.