

MALHEUR COUNTY COURT MINUTES
July 11, 2018

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 and public member Kristin Schoorl.

SECOND PUBLIC HEARING - FORMATION OF ONTARIO RECREATION DISTRICT

Present for the second and final public hearing to consider the formation of the Ontario Recreation District were: Mary Jo Evers, Megan Cook, Matt Mejia, Andrew Peterson, Mary Ann Peterson, Harvey Hatfield Jr., Bob Boyd, Toni Davila, Eric Evans, Ontario Mayor Ron Verini, and Ontario City Manager Adam Brown. Notice of the hearing was published in the Argus Observer on June 24, 2018 and July 4, 2018 and posted at Ontario City Hall, Ontario Community Library, Ontario Justice Court, and the Malheur County Courthouse.

Judge Joyce opened the hearing and asked for an update from Ms. Evers.

Mary Jo Evers: So since we last met we've tried to address some of the questions that you guys came forth with as to how the assets would be transferred and if we aren't able to get grant funding for that second six months of this fiscal year, where are we going to get the funds for that; and so the city was gracious enough to do a letter of intent lining out that they intended to do a Memorandum of Understanding (MOU) with the district, similar to what was done with the library district and also that they would loan funds in the event that the district would need them. So that was two of the major questions last time that we can answer.

Judge Joyce: So that's your answer.

laughter

Judge Joyce: Okay. So, proponents, testimony.

Mayor Verini: Well the city is a proponent of the

Judge Joyce: Okay

Verini: and if you'd like for me to read the letter

Commissioner Wilson: I've read it

Verini: You already did?

Commissioner Wilson: Yeah

Commissioner Hodge: Yeah, we got it, did you see it?

Judge Joyce: Yeah, I saw it right now.

Megan Cook: I'd just like to remind, I guess, that, you know, this is coming about because the city is closing the rec department. So this is only to take care of those kids that aren't going to have anything to do after December 31st. And so, the importance of that is immense, it affects all the children within Ontario and the surrounding area as well.

Judge Joyce: Okay. Other proponents?

Kristin Schoorl: I'll speak up. I work for the school district so I would just as a proponent support your arguments that the kids definitely do need this in our community.

Judge Joyce: Okay.

Toni Davila: I think people are worried about the crime rate in Ontario and surrounding areas. And I'm wondering what's going to happen to the crime rate if we lose sports. I mean, what are these kids going to do? Graffiti's already all around, I mean, breaking and entering, trespassing, all that other stuff so you go taking away sports, crafts, and other extracurricular, I mean, it's not going to help anything.

Judge Joyce: Okay.

Bob Boyd: The last time I think Megan was here, there was a letter, you read some letters, and so this is the same as what I wrote before, but, I mean, I've lived here all my life and it's a different town, and we are losing the good young families that made us a vibrant town before, and there are families who will leave if something's not done. And once that trickles then it makes it more difficult for us, it makes it more difficult to provide services, it makes it more difficult to have a tax base, it's just one step of many that are needed to rebuild a town where young families want to stay. We have the business district and so on, but as far as city, it's not there. We have too many people that, you know, are choosing to live in Fruitland or elsewhere that work in Ontario; we're losing those families. My grandkids are in town and we take them to Roaring Springs, that's a big trip for them, but I'm thinking okay, what else? They're at an age where they could go to a splash park, well we don't have, we're building a splash park; Fruitland has two. And city rec has got to be more than soccer and, Larry - is Dan your cousin or brother?

Commissioner Wilson: Dan is my cousin.

Boyd: He used to swim in that pool all the time.

Commissioner Wilson: Yep

Boyd: My mom, the senior citizens aerobics that they had, how we lost that is just a tragic to our town; we don't have a golf course. It's going to be difficult to get things, I don't think we can ever get it back the way it was, but we've got to start making some type of effort or, you know, we're going to be completely lost and everybody will benefit around us at our expense. So I guess that's being a proponent.

Judge Joyce: Okay. Others?

Andrew Peterson: Just to say that I'm a proponent and my wife and I are proponents. For the sake of kids we'd like to see something done.

Judge Joyce: So, last call proponents? First call opponents? Any opponents in the room? We have a letter here, I think that will go into the, it will go into the record. So Don did you want to address that?

Commissioner Hodge read the written comments received from Ed and Evelyn Sayers. (The written document was received by Court staff on June 27, 2018.)

*June 27, 2018
Malheur County Court
Recreation District Written Comments*

We are residents of Malheur County and the Ontario school district but not Ontario City. We would like you to make two changes to the proposed Recreation Tax measure.

1. The measure should not be based on the school district but on the city. There were three possible boundaries. The most logical boundary is the city of Ontario since that is where those most likely to use the recreation activities are located. But we assume this was not chosen because the agricultural property tax base was needed. But the entire county was not chosen with all its agricultural tax base because as was mentioned in the paper, the county turned down the library district tax so let's not try this again. So, to get as much tax bases as possible (ignoring who would actually benefit from it), the school boundary was chosen. This makes sense for those trying to get the most taxes but not for those that will have to pay the taxes.

2. The tax rate is too high. The cost to run the district was quoted as \$123,720 but the expected taxes to be raised with the 55 cents per \$1,000 assessed value would be \$600,000. So only 20% is needed to actual support the recreation district. The rest (over \$450,000) is extra and would be used to get the aquatic center up and running. And after that the rate "could" drop. Our proposal is lower the tax rate to 15 cents per \$1,000. If not, then the title of the measure should be changed to say it is for the aquatic center and to support the recreation district. AND the measure should be rewritten to say the rate WILL go down after the aquatic center is up and running.

Please read and consider these comments at the July 11th meeting since we cannot attend.

Ed & Evelyn Sayers, 3950 Arabian Drive, Ontario OR 97914

Judge Joyce: Other opponent testimony? Other opponent testimony? Hearing none - summary? Mary Jo?

Evers: Please vote yes. *(laughter)*

Commissioner Wilson: Well we kind of have a chance to rebut this too if you so choose.

Evers: So the \$0.55 was based in order to get the pool up and running in three years and once you, you have the ability to go below that rate, so once it's set at that rate it's, that's why it was chosen and then we've already gone over why the boundary was chosen, because there are a lot of people that are in the 8C boundary but not in the city district boundary that use the rec district. I don't have a problem adding, I believe that it's in the description on the measure that it would correct the Aquatic Center, bring the Aquatic Center back, so I don't see the, needing to change the ballot title.

Judge Joyce: Any other comments? So if there's no other comments then we will go into the closure of the public hearing and then no comments can be taken after that without reopening the hearing. So, I just want to make sure since you spent this much time getting here that you are able to speak.

Adam Brown: As a matter of order, the amendment to the petition, can that be able to be changed after the signatures have been received on that language?

Judge Joyce: That's a legal question.

Evers: The SEL801 wasn't, this was a different process, so that wasn't agreed before the signatures were done; it was an advisory only petition and not an official petition, so I think that allows it to be changed.

Ms. Williams: Right.

Evers: The other thing that's come up, sorry, I just remembered this, was compression. And I had said that it wasn't an issue and that there was one district like the library had \$779 of compression. The school district also has compression but when the school district, when the state calculates your funds, they say, okay, the school district's going to get 22 million dollars less the (inaudible - coughing in background) that we get and that equals what the state's going to send us. So if we had more compression and the school district was compressed down and got less taxes that means we would get more dollars from the state that would fill that gap. So it would actually bring more state dollars in is what I'm saying. That's why it wasn't an issue that I thought was relevant.

Judge Joyce: Other comments? So, if we're ready, we will close the public hearing and deliberate. No objections? So we have before us the Order for Election of the Ontario Recreation District, GO-06-18, by title only, the matter coming before the Malheur County Court on July 11, 2018 for the final hearing upon the order approving formation of the Ontario Rec District, Order GO-05-18, and it appearing to the court that the election is required pursuant to ORS 198.801(3) because the formation includes a permanent tax rate limit for operating taxes for the proposed recreation district. So it takes a motion.

Commissioner Wilson: You made the motion last time.

Judge Joyce: I did?

Commissioner Wilson: I thought it was you.

Judge Joyce: Oh okay, well I'll make it again, I'll make the motion. Is there a second?

Commissioner Hodge: I'll second.

Judge Joyce: Second. Deliberation. Comments. All in favor - aye.

Commissioner Hodge: Aye.

Judge Joyce: Opposed?

Commissioner Wilson: Aye.

Judge Joyce: One opposed. Okay.

Judge Joyce and Commissioner Hodge signed Order GO-06-18: Order for Election of Ontario Recreation District. See Instrument #[2018-2608](#)

The letter of intent submitted by the City of Ontario and referred to at the beginning of the hearing was as follows:

July 10, 2018

Malheur County Commissioners

Re: City of Ontario Letter of Intent

Dear Commission Members:

If the formation of the Ontario Recreation District is placed on the November 6, 2018 ballot and approved by the voters, the purpose of this letter is to express the intent of the City Council to enter into a formal intergovernmental agreement with the Board of Directors of the Ontario Recreation District to accomplish the following:

1. Convey to the Ontario Recreation District the real property owned by the City of Ontario upon which is located the Aquatic Center, Ontario recreation office, skate park, tennis courts and proposed splash pad, following the same procedure and format used to convey the Ontario Library real property to the Ontario Library District in 2009.

2. Make every reasonable effort to assist the Board of Directors to locate funding sources for the Ontario Recreation District until the District begins receiving property tax revenues in 2019, including, if necessary, extending temporary bridge loans to the District upon request of the District.

Undoubtedly there will be other issues that arise that will need to be addressed in an intergovernmental agreement with the Ontario Recreation District. The City of Ontario is

committed to the success of the Ontario Recreation District and will negotiate in good faith on any other issues that arise.

This letter was unanimously approved by the City Council during a special meeting on July 9, 2018.

*Very truly yours,
Ronald Verini, Mayor*

Pat Caldwell from the Malheur Enterprise joined the meeting.

COURT MINUTES

Commissioner Hodge moved to approve Court Minutes of June 20, 2018 as written. Commissioner Wilson seconded and the motion passed. (Judge Joyce was not present on June 20, 2018.)

Commissioner Hodge moved to approve Court Minutes of June 27, 2018 as written. Judge Joyce seconded and the motion passed. (Commissioner Wilson was not present on June 27, 2018.)

ENTERPRISE ZONE - FROERER FARMS

Commissioner Hodge moved to approve Froerer Farms and Malheur County Enterprise Zone Agreement for Oregon Enterprise Zone Extended Abatement. Commissioner Wilson seconded and the motion passed unanimously. The City of Nyssa has signed the Agreement as they are also a sponsor of the Enterprise Zone. The agreement sets forth the agreed upon provisions for a five-year tax exemption for Froerer Farms Inc. See instrument [#2018-2615](#)

Commissioner Hodge moved to approve Resolution No. R18-13: A Resolution Approving the Enterprise Zone Application for a Five-Year Tax Exemption on New investments for Froerer Farms Inc. Commissioner Wilson seconded and the motion passed unanimously. See Instrument [#2018-2616](#)

AMENDMENT - IGA #153131

Commissioner Hodge moved to approve Sixth 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. The amendment awards funds for Respite Services for one client at McNary Respite Place. A copy will be returned for recording. See Instrument [#2018-2754](#)

PURCHASE AND SALE AGREEMENT - NYSSA INDUSTRIES

Commissioner Hodge moved to approve Purchase and Sale Agreement between Malheur County and Nyssa Industries Inc. Judge Joyce seconded and the motion passed. Commissioner Wilson abstained as he has an interest in Nyssa Industries. The property is approximately 78 acres and the purchase price is \$394,650. The property is for the reload facility and will be purchased from funding as set out in House Bill 2017. See Instrument [#2018-2617](#)

OLCC APPLICATION

Commissioner Hodge moved to approve Oregon Liquor Control Commission (OLCC) Liquor License Application for American Eagle Truck Stops LLC/Nadiya Alibhai at 5945 US Hwy 30, Huntington. Judge Joyce seconded and the motion passed unanimously.

RESOLUTION - GUARANTOR MALHEUR COUNTY DEVELOPMENT CORPORATION

Commissioner Hodge moved to approve Resolution No. R18-15: In the Matter of A Resolution Approving Video/Poker Distributions in the amount of \$200,000 within the Malheur County Economic Development Budget to secure/guarantee a line of credit with Umpqua Bank to the Malheur County Development Corporation in order for the Corporation to develop the Treasure Valley Reload Center and receive reimbursement from the Oregon Department of Transportation under State Agreement No. 32574; and Authorizing Malheur County to be a Guarantor. Commissioner Wilson seconded and the motion passed unanimously. See instrument #[2018-2618](#)

BURN BAN

Commissioner Hodge moved to approve Order No. GO-09-18: Order Prohibiting Outdoor Open Burning in Unincorporated Areas of Malheur County Located Outside a Fire District. Commissioner Wilson seconded and the motion passed unanimously. The ban begins July 14, 2018. See instrument #[2018-2619](#)

APPEAL HEARING - TRENDWELL WEST INC.

Present for the hearing to consider an appeal of the Planning Commission decision denying Applicant, Trendwell West Inc., a conditional use permit for an oil and gas exploration well in the exclusive farm use zone were: Interim Planner Jamie Willet and Applicant's Attorney Seth King from Perkins Coie LLP. Planning Department File No. 2018-03-04. Notice of the hearing was published in the Argus Observer.

Judge Joyce opened the hearing and stated: Now is the time for the public hearing before the Malheur County Court on Trendwell's application for an exploration gas and oil well. This is an appeal from the Planning Commission's decision denying the application. Please sign in and when called to speak please state your name, address and title for the record. There is not a time limit for testimony. All testimony and questions shall be directed to or through the Court and not to staff or directly to witnesses.

Judge Joyce asked if any members of the Court needed to abstain and if so to state the reason. There were none.

Judge Joyce asked if any Court members had any conflicts of interest to disclose. There were none.

Judge Joyce asked if any Court members had any bias to disclose. There were none.

Judge Joyce asked if any Court members had any ex parte communications, including any site visits, to disclose. Commissioner Wilson stated he had gone to the property area that morning but had not spoken with any one.

Judge Joyce asked if anyone objected to any of the Court members hearing the application. There were none.

Judge Joyce asked if anyone challenged the Court's jurisdiction to hear the matter. There were none.

Judge Joyce stated: Oregon land use law requires several items be read into the record at the beginning of this hearing. I will now read these items: The applicable substantive criteria upon which the application will be decided are found in Oregon State laws and rules as well as local code provisions, which are specifically set out in the Staff Report. Testimony, arguments, and evidence presented must be directed toward these approval criteria or other criteria in the Malheur County Comprehensive Plan or the Malheur County Code that the speaker believes to apply to the decision. The failure of anyone to raise an issue accompanied by statements or evidence sufficient to afford the Court and the parties an opportunity to respond to the issue will preclude appeal to the Land Use Board of Appeals (LUBA) on that issue. An issue that may be the basis of an appeal to LUBA must be raised no later than the close of the record at or following the evidentiary hearing. Such issues must be raised and accompanied by statements or evidence sufficient to afford the County Court decision makers and the parties an adequate opportunity to respond to each issue. The failure of an applicant 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 precludes an action for damages in circuit court.

Judge Joyce reviewed the order of proceedings. The applicant will be allocated time for presentations. The applicant will also be allowed time for final rebuttal. All others wishing to testify will be allocated time. The order of testimony will be: staff report; testimony in favor/proponent; testimony in opposition/opponent; neutral testimony; staff comments; applicant/proponent rebuttal; opponent rebuttal; any further question from the Court; closure of the public hearing at which time no public testimony can be heard; and deliberation or take matter under advisement.

Judge Joyce asked for a Staff Report.

Interim Planner Jamie Willet: Staff Report Planning Department File No. 2018-03-014

Judge Joyce: Can you state your name for the record?

Ms. Willet: Jamie Willet. Conditional use application for exploration for oil and gas. Planning Commission date April 26, 2018. Owner of record is Green Spruce LLC, 101, Mission Street Suite 505, San Francisco, California. Applicant is Trendwell West Incorporated, 10 East Bridge Street Suite 200, Rockford, Michigan. Proposed Action: Conditional use approval for exploration for oil and gas in an Exclusive Farm Use pursuant to MCC Title 6, Chapter 6, Conditional Uses 6-3A-3(E)(1). Property Identification is Tax Lot 300, Township 19 South, Range 46 East, Map 19S4613, Malheur County Reference Number 9453. Property Location and Directions: Go south from Cairo Junction on Highway 20-26 to Gem Avenue. Turn west and go approximately one-half mile to proposed well site on the left.

Commissioner Wilson: That should be one and a half miles

Ms. Willet: Okay

Commissioner Wilson: they're the directions in the packet

Ms. Willet: Okay. Zoning is exclusive farm use. The parcel size is 37.06 acres. The parcel use has 36.20 acres of water rights. Surrounding use is farm land with buildings and structures. Access would be from Gem Avenue. Sanitation Requirements: None required. Fire Protection: The proposed action is within the Nyssa Fire Protection District. Natural Hazards: None known. Water Rights: 36.20 acres and no know history. General criteria, conditional use criteria is stated - do you want me to read through all that? No? And then we have proposed conditionals of approval.

Judge Joyce: Does that conclude your staff report?

Ms. Willet: I believe so, yes.

Judge Joyce: Okay, testimony in favor, proponent.

Applicant's Attorney Seth King: Good morning Judge Joyce and Commissioners. My name is Seth King, I'm an attorney at Perkins Coie, and if you need me to read the address into the record I can. (*Staff determined the address was provided in the file.*) I'm here from Portland and I'm here on behalf of the Applicant and Appellant who's Trendwell West Inc. They are based in Michigan, they regret they were not able to be here today, they were here for the Planning Commission meeting but weren't able to make it out for this one, so you're stuck with me for today. Appreciate the opportunity to address you today. We request that you reverse the Planning Commission's decision and grant the appeal and approve the application. I think you've seen our appeal submittal there, we've raised five different appeal issues, and I'm going to just focus on the first one today, because I think that really resolves all of the issues. In a nutshell what we discuss in the first appeal issue is that the type of use that's at issue here, which is exploration for oil and gas, is allowed by right under state law and as a result it can't be subject to additional county regulations and then certainly doing what the Planning Commission did here which was applying those additional county regulations to deny the use would not be allowed. So, recognize it's not a particularly satisfying thing for me to tell you that or for you to hear that; I'm sympathetic that you want to have local control over this type of use but the state statute dictates what the uses allowed by right are on exclusive farm use land and this is one of those types of uses. Just to explain to you a little more detail under ORS 215.283, the state legislature has set out two different categories of uses on exclusive farm use land. The first category is set out in subsection one of that statute and those are considered to be uses that are allowed by right and counties are required to allow those, they can't be classified as conditional uses, they can't be subjected to additional local criteria that are more stringent than the state law. The type of use here is listed in that subsection one, it's in 215.283(1) (f), which says the following uses may be established in any area zoned for exclusive farm use, and then that's, operations for the exploration for and production of oil and gas. So the problem that happened here was that because their use is allowed by right it can't be subject to the additional county

conditional use process, which is what the Planning Commission applied here. As a result we would ask that you determine that the use is allowed by right and reverse the Planning Commission's decision. If it were listed under subsection two of the statute it could be treated as a conditional use and the county could subject it to additional regulation. This just isn't a type of use that falls under that subsection two. We think this issue is dispositive of the appeal and there isn't a need to further address the specifics of the Planning Commission's decision, but our remaining appeal issues did explain why we thought the Planning Commission erred in its specific application of the criteria; I think we will just rely on our written submittal of those points. And, I think we that I'm, that would conclude my presentation. I'm happy to answer any questions you might have about the nature of the law and the issue or exactly what my client's proposing.

Judge Joyce: Any other testimony in favor? Opponent testimony?

Kristin Schoorl: I have some concerns; again, I've been here before regarding

Mr. King: Thank you.

Ms. Schoorl: appropriate uses of exclusive farm EFU zoned ground

Judge Joyce: You have to state your name for the record

Ms. Schoorl: oh I'm sorry, Kristin Schoorl.

Judge Joyce: Okay, continue.

Ms. Schoorl: What concerns me is I think, I'm familiar, I commute on Gem Avenue to work every day so I have to go by the property. Again we've got, you've got a piece of ground that is currently in farm production, it's zoned EFU, you're talking about putting industrial development in here that will impact water quality. There's a lot of residences right there. I farm. If that was going indoor next to me I'd be extremely concerned about the water quality, the drilling, what types of chemicals you're using to drill, waste. Another issue we have to face, Gem Avenue I think we are all aware is an extremely narrow road, you're talking about a lot of truck traffic, so again, we've got to talk about the impact to the citizens who live here; an outside entity (inaudible) owns the property, Trendwell West obviously, you know, they're out of state, so it's the locals who are going to should the burden of any kind of environmental impacts, be it traffic, noise, waste disposal, at any rate, and again I think we need to think about what is the future of our farm ground here in Malheur county. I could see if it was out away from a in a more residential area but it's not, there's several homes in that area. So again, just as someone who lives near the area, commutes everyday on Gem Avenue it concerns me.

Judge Joyce: Does that conclude your testimony?

Ms. Schoorl: Yes it does, thank you.

Judge Joyce: Okay, other testimony in opposition? Neutral testimony? Public agency testimony? Staff comments?

Commissioner Wilson: When do we address if we have any questions?

County Counsel Stephanie Williams: It will be after staff comments

Multiple talking to answer Commissioner Wilson's question

Commissioner Wilson: okay, sorry I didn't mean to interrupt.

Judge Joyce: Staff comments - hearing none applicant proponent rebuttal

Commissioner Wilson: did you have something

Ms. Williams: I've been in contact with Mr. King after the

Judge Joyce: oh, sorry

Ms. Williams: commission hearing and also with our Department of Land Conservation and Development(DLCD) representative and they do agree, DLCD, I've also spoken with Department of Geology and Mineral Industries(DOGAMI), that it's an outright permitted use and it should not, there's also case law that indicates that the county should not be applying its conditional use permit criteria to a single exploration well, and that actually DOGAMI is sort of the gatekeeper of the environmental and construction of the exploration well. And I just want to remind the Court that this is a hearing based on the record before the Planning Commission, you're really not supposed to take any new evidence. I just wanted to state that on the record.

Commissioner Wilson: Thank you.

Judge Joyce: Other proponent rebuttal.

Mr. King: Thank you Judge Joyce and Commissioners. For the record, Seth King for the applicant on rebuttal. Appreciate the comments that we heard there. We think that this is very low impact operation and as Ms. Williams stated, it is subject to an extensive permitting process through the state, the Department of Geology and Mineral Industries, and the applicant will be required to obtain permits from them, work through all of that process. There are extensive requirements about what has to happen before any drilling could occur, about how the drilling's conducted, about how the site, if no oil or gas were found, how the site needs to be restored. So there are a number of different requirements there that the applicant would be subject to and we think that will lessen the impacts even more so on the neighborhood. We didn't hear any opposition that refuted my interpretation of the law that this is allowed by right under state law. Again, we'd ask that you reverse the Planning Commission and grant the appeal and application and I'm happy to answer any questions.

Commissioner Wilson: A thing that might help too is, I don't live too far from there, in your operations, its Exhibit 4, basically you're saying you're agreeing to on this exploratory drilling and setup and all that and how you're, no fracking is going to be involved

Mr. King: That's correct

Commissioner Wilson: it explains it pretty thoroughly that the, what DOGAMI, or that department of gems and mining or, what they require out of you and it sounds like, you stated in this that you guys are going to adhere to that, so

Mr. King: That's correct

Commissioner Wilson: so that kind of, after reading all of that it answered, and you just reiterated that so that kind of answered any concerns I had.

Commissioner Hodge: One question, when I read in here that, I think its 125,000 gallons of water is it that's involved which is, but it sounds like it's a closed system and it just circulates within itself?

Mr. King: That's correct. I think that its, 105,000 is the number that

Commissioner Hodge: or maybe it's 105,000, 2500 barrels, whatever that equates out to and it's all supplied off premises, it comes in in tankers or something?

Mr. King: Yes, I think that's right, it's going to be, it will be trucked to the site.

Commissioner Hodge: So it's all off site water that comes in

Mr. King: Correct

Commissioner Hodge: and it's all in an enclosed system that stays enclosed

Mr. King: Correct

Commissioner Hodge: Okay.

Commissioner Wilson: We had a deal on a swimming pool and the average swimming pool is about 10,000 gallons, so, I don't know how much a truck holds but it'd be like 10 swimming pools, so it's not like, I guess they just truck it in and

Commissioner Hodge: But it sounds like, is that 105,000 gallons, is that over the length of the project, if it takes a couple weeks to do this drilling or three or four weeks or whatever the case may be?

Mr. King: My understanding is that's over

Commissioner Hodge: that's a minimum probably

Mr. King: It's my understanding that's their, what their typical experience has been for other sites. They have a site not too far away in Idaho and it's my understanding that's over the life of the drilling.

Judge Joyce: Other testimony?

Commissioner Wilson: I didn't have any other questions.

Judge Joyce: No questions?

Commissioner Hodge: None from me.

Judge Joyce: Okay, opponent rebuttal?

Mr. King: Thank you

Ms. Schoorl: Again, Kristin Schoorl for the record, again it's just per county, the simple county code that's on the Malheur County website, you know, it's still on land that is currently in farm production, so, you know, I mean I appreciate you stating the state code and law but at any rate it's still concerning to me that we're taking productive farm ground out of production to do industrial development. You know I mean I have a solar farm in my backyard which is fine, but I mean again its, our area's becoming very industrial and just as a farmer and land owner that, the flavor of the county is concerning to me, what are we wanting to achieve long term.

Judge Joyce: Thank you. Any further questions from the Court?

Commissioner Wilson: I don't have any.

Commissioner Hodge: None from me.

Judge Joyce: So, no public testimony can be heard after this point when we close the public hearing. So hearing none, we will close the public hearing and deliberate.

Ms. Williams explained that staff did not have a proposed order at this time so the Court would need to make tentative findings of fact and then subsequent findings and an order would be prepared; or the Court could take the matter under advisement and deliberate in a public meeting at a later time. Commissioner Wilson confirmed with Ms. Williams that as it is an outright permitted use the Court could stipulate in its Order that the applicant adhere to DOGAMI's requirements; and any process pass the exploratory process would require further permitting, mostly through DOGAMI; and that DLCDC has confirmed the exploratory process is an outright allowed use. Commissioner Hodge stated he agreed with Commissioner Wilson.

Commissioner Wilson moved to tentatively adopt the findings set forth in Trendwell's narrative. Commissioner Hodge seconded and the motion passed unanimously.

Commissioner Wilson moved to tentatively grant the appeal and reverse the decision of the Planning Commission as the exploration for oil and gas on exclusive farm use land is an outright permitted use under state law. Commissioner Hodge seconded and the motion passed unanimously.

An Order and Findings will be prepared for the Court's consideration at a future Court meeting.

JOHNSON APPEAL

Commissioner Hodge moved to adopt the findings and order affirming the decision of the Planning Commission for the Brett and Kathryn Johnson matter; Order No. GO-08-18: In the Matter of Appeal of Planning Commission's Decision Approving a Conditional Use Permit for a Non-Farm Dwelling and a Non-Farm partition by Brett and Kathryn Johnson for Property Located in the EFU Zone - Tax Lot 600, Section 23., T. 20S., R.46E., Map 20S4623, Reference Number 18759. Judge Joyce seconded and the motion passed. Planning Department File No. 2018-03-007. (The hearing on this matter was held June 27, 2018; Commissioner Wilson was not present for the hearing.) See instrument #[2018-2614](#)

Ms. Schoorl left the meeting.

INTERVIEWS - PLANNING DIRECTOR

The Court discussed possible dates for interviews for Planning Director and requested interviews be scheduled for July 18th if possible.

IGA WITH MALHEUR MEMORIAL

Sheriff Brian Wolfe met with the Court and presented an Intergovernmental Agreement (IGA) with Malheur Memorial for medical services in the jail. Commissioner Hodge moved to approve Intergovernmental Agreement for Medical Services in the Malheur County Jail with Malheur Memorial Health District. Judge Joyce seconded and the motion passed. (Commissioner Wilson abstained as he is a board member of Malheur Memorial.) The agreement expires June 30, 2019. Malheur Memorial will provide a physician or physician's assistant who will, along with an LPN or MA, make regular sick call visits to the Jail of 1/2-day visit consisting of four hours per week. The amount of compensation to Malheur Memorial for the services is \$7,500 per month. See instrument # [2018-2623](#).

Ms. Williams left the meeting.

FAIRGROUNDS UPDATE

Fairgrounds Manager Lynelle Christiani met with the Court and provided a monthly update. 4200 individuals attended various events held at the fairgrounds facility in June; and there were 227 walk-ins at the office. Ms. Christiani will also be tracking incoming phone calls. The caretaker position continues to be an issue; there have been several individuals in the position but none stay. (The contract with Euvalcree expired June 30, 2018 and was not renewed.) Several individuals are assisting on a part-time basis. The buildings under repair/construction are supposed to be completed by July 21. The wash rack project is still in process. Snake River Correctional Institute (SRCI) work crew recently painted in the sheep barn and did some mowing. The pickup recently broke and Ms. Christiani inquired if there was

another that could be loaned to the Fair; it was suggested that Ms. Christiani visit with Road Supervisor David Tiffany. Carnival passes for the Fair will go on sale on Monday, July 16th; the Fair is July 31-August 4.

ROAD DEPARTMENT - GRADER

Road Supervisor David Tiffany met with the Court and discussed possibly purchasing an all-wheel drive grader. The grader is a 2015 John Deere 772GXT with 2177 hours; and the price is \$229,400. The Road Department's 2002 Volvo could be traded in with a trade allowance of \$20,000; or it may be possible to sell it through other avenues. The Court had no objections to the purchase and directed Mr. Tiffany to work with Ms. DuBois on the matter. Commissioner Hodge noted that if it is decided to finance the purchase he would assist with contacting the financial institution(s).

COURT ADJOURNMENT

The meeting was adjourned.