

MINUTES
UMATILLA COUNTY BOARD OF COMMISSIONERS

Meeting of October 7, 2020
9:00 a.m., Room 130, Umatilla County Courthouse
Pendleton, Oregon
Public Call in #: 541-728-0275

Commissioner Present: Chair John Shafer
Commissioners attending remotely: Vice-Chair George Murdock and Commissioner Bill Elfering
County Counsel: Doug Olsen
Guests Present: Anne Livingston, Penny French, Mike Thorne, Terry Simpson, Jim Williams
Video or Calling in: Jeff Newton; Amy Ashton-Williams, Human Services Director; Jennifer Blake, Human Resources Director; Joe Fiumara, UCo Health Director; Dan Lonai, Administrative Services Director; Matt Kenny, Public Works, Survey Supervisor;

CALL TO ORDER: Chair Shafer called the meeting to order at 9:00 a.m. He reminded all that the meeting is a public forum and there is a call-in option provided. The meeting is being video and audio recorded and minutes will be taken. Comments will become part of the meeting record. If persons wish to speak before the Board, please come to the podium, if in person, identify yourself and state where you live in order to be heard on the record – also note if you are speaking on behalf of others. He noted there is a point for public input before business items for other than agenda items.

Pledge of Allegiance

Awards/Correspondence/Recognition. [Employee of the Quarter, presented by all Commissioners @ 8:30 a.m. (prior to the meeting) in the District Attorney's office, 3rd floor. Congratulations to Patti Jo Evans and thank you for a job well done.]

Minutes – Commissioner Elfering moved to acknowledge the Board minutes from the meeting of 9/16/20. Seconded by Commissioner Murdock. Carried, 3-0.

Additions to Agenda – Doug Olsen: one item, Department Structure for Assessment & Taxation.

Public Comments – None were heard.

Business Items

1. North County Livestock District – Public Hearing - Continued. Chair Shafer called the public hearing to order at 9:04 a.m., noting this is a continued public hearing to accept additional documents and testimony as well as to discuss Board actions available. The staff report was presented by Doug Olsen who noted further background and that additional items were submitted for the record. He referred to the on-line link from today's agenda. Also, today's Board action is the first part dealing with the original petition. The second part is if the Board approves anything today, a majority of landowners within the district must sign a petition in support within 90 days. An area map is updated in the documents linked with the agenda (and projected on the monitors).

Chair Shafer asked first for those in favor (in the room).

Jim Williams, 43229 Holdman Rd., Helix, OR. He is a concerned landowner. He doesn't have cattle there. His business is North Country Growers. He talked about the legality of livestock going onto his property. When he sprays and if cows are grazing, there is liability for him. It is hard to tend to crop in a timely fashion with cattle in the crop. It is clear in Oregon there are land use rights and wheat growers also have rights to tend to their property. He expressed concern about open range laws. Without proper fencing, cattle get out, and there are liabilities – he knows there is a process. He feels cattle people should be liable and responsible for their cattle.

Chair Shafer asked for anyone on the phone to speak in support.

Jeff Newton, Helix. The main reason he presented the initial petition is to try to shift legal responsibility of cattle to the livestock owner. Why is it his responsibility when cattle get on his wheat property? He feels a livestock district would make the legal responsibility that of livestock owners. He can't understand why wheat people are responsible for cattle and the issues they cause. He feels that open range is archaic. He advised he was calling in from Kansas.

There were no others to speak in favor on the phone.

Chair Shafer then asked for those in opposition in the room to speak.

Terry Simpson, 40895 Despain Gulch Rd., Pendleton. He feels the area should be a small area. He feels it is a stretch to say a cattle person with cattle on someone's wheat would be the responsibility of the wheat grower. The concept of open range he feels is gone a long time. He talked about the history of fencing. However, the areas in the proposed district cattle are grazed annually – it helps clean up stubble, but things changed. Some people aren't in the cattle business any longer. He feels the main consideration is liability of roads. Some are highly traveled roads and livestock sometime get on the road. He takes responsibility if his cows get on roads. These roads are not gravel any longer and there is more traffic going faster – there is risk. He suggests more conversations with neighboring landowners. He agrees wheat growers shouldn't have to put up fence to keep livestock off their property. All will live with whatever decisions come out.

Mike Thorne, 102 NW Johns Ln., Pendleton. He advised he spoke at the prior hearing. He again stated his opposition for the proposed district. He first suggested an alternative with Board action and consulted with Doug Olsen about it. If the Board wants, possibly taking up alternatives with legislators. There is no sense to encumber 500 or so property owners to the unknown liability issues with what the district would create. His observation is good neighborly practices and fences are going up. In one case, the cattle owner is responsible (a tenant) and wants to make sure they are being a good neighbor. That he understands was an issue in the first place. He doesn't feel forming a livestock district in the large subject area is in the County's best interest. He urged the Board consider all alternatives.

Anne Livingston, PO Box 192, Pendleton. She has property in the "pink" area depicted on the map. She opposes the petition, but recognizes it was in desperation. She reiterated the feeling of more negative impacts vs. benefits (i.e., increased insurance all will have to purchase as well as loss of protection regarding liability). Even people who have been identified, she feels all are stepping up their act. This awareness and process is showing people to be paying better attention. She hopes the proposed area shrinks a lot.

There were no others to speak in opposition.

In response to Commissioner Elfering's question to Mr. Olsen, the legal difference between open and closed range is primarily shifting of responsibility. In open range, if you don't want livestock on your property, you have to put up a fence. The opposite is true with closed range. It is up to the livestock owner to fence the livestock in. Regarding liability, if you are in a livestock district and livestock gets out, there must be some negligence shown. The statute says if you allow animals to get off your property, you are liable – there must

be something shown that you allowed animals off your property and onto someone else's. Commissioner Elfering added, then that is someone who fails to act as a reasonable and prudent person. If that person allows livestock to get out, they are responsible. In his experience, basic farm liability insurance does apply in this case; there is insurance protection if livestock gets out (i.e. on the road).

He then asked, how would someone exclude from the district? Mr. Olsen advised it can be done now at the formation process, but the property must be at the edge of the proposed area. A person can petition to withdraw from the district. It is same process: petition, notice with a public hearing, and the Board would make the decision for withdrawal. A majority of owners must sign a petition (for withdrawal) within 90 days as noted.

Commissioner Murdock read his statement (attached to minutes, Exhibit 1). He felt the matter should and could have been avoided with neighbors talking to neighbors. This issue can't be voted on by property owners with the change in law (in 2019). It must be handled by the Board reacting to the petition. He also talked about that he has been told that fences are being erected for the main subject area that was at issue. He is concerned with the huge area first proposed. He can't bring himself to support a livestock district; however, he suggests proposal "A", the NE corner of the proposed area as depicted on the map attached to the linked documents on the agenda (last page) to start towards resolution. This is his opinion. If a district is not established, he wants problems to be addressed soon. If it goes on for a year, he has another option "B" depicted on the same map that he would support with a much larger area. Good fences make good neighbors.

Commissioner Elfering agreed with the good fences make good neighbors comment by Commissioner Murdock. He feels livestock should be fenced in to prevent problems and he feels livestock owners be responsible for their own. All need to be good neighbors. And, again, insurance has protections for the most part.

Discussion ensued about the map showing areas "A" and "B". It was felt a better option for a much smaller area and less divisive. Option B would be a separate district later on, if issues aren't resolved.

Mr. Thorne had a question about the map. His property is on N. Juniper Canyon Road and he asked for clarification as he wants to be sure his property is not in the middle of area "A". After looking at the map, with the road being the edge of the proposed new area "A" and his property is not within that boundary.

Chair Shafer asked Mr. Newtson, still on the phone, if he was looking at the map. He responded he wasn't able to pull up the link to the map. Chair Shafer emailed the map to him to review.

There was more discussion about the boundary and Chair Shafer and Mr. Olsen agreed the road (N. Juniper Canyon) would be the dividing boundary. Also, the livestock district with the smaller proposed area is provisional with those in area "A" would have to reaffirm their agreement to be part of it within the 90-day period. And, Mr. Olsen added there can only be one district formed in the current process, and that is the one depicted as "A". Later on, if needed or desired, then there would be a "B" (or "C"). Today's Board action is only to agree to the proposal area of "A". Anything further with different actions would be the same in a separate process.

Mr. Newtson agreed with Commissioner Elfering's comment about insurance and if you have a fence, you aren't at fault. However, some owners don't have adequate fence -- one wire strung to a car battery isn't adequate and doesn't meet the statutory requirement. That is a big problem for wheat farmers and that is the rub – the current fence is not adequate to keep cattle in. Good livestock owners aren't the problem, it's those that aren't putting up and keeping up adequate fence.

Chair Shafer agreed with Commissioner Murdock's comments that he liked the previous process for a livestock district to vote on their own, but now the Board has to act.

Mr. Olsen advised if action is to be taken, the hearing will need to be closed. Chair Shafer closed the public hearing @ 9:50 am.

Deliberation:

Motion was made by Commissioner Murdock to adopt livestock district A (as discussed and depicted boundaries on the map) in lieu of the whole district area first proposed. Commissioner Elfering still supports the entire district. Chair Shafer has reservations about entire district; **he seconded the motion. Carried, 2-1. Dissenting vote made by Commissioner Elfering.**

At Chair Shafer's question for additional information as to the map, portion "A", Mr. Olsen advised since the Board conditionally approved the district, it is now up to the majority of property owners in area A to sign a petition to approve formation of the district. They have 90 days to do so. In addition, Commissioner Murdock noted for the record, there is the suggestion of area "B" that could be annexed into A if issues are not resolved. Mr. Olsen added there would probably need to be additional action at a later date regarding those not wanting to be in the district.

Motion was made by Commissioner Murdock that the creation of the livestock district will be an on-going process and that additional property could be added to the proposed district as necessary, including adding area B into area A in the event the livestock aren't contained. Seconded by Commissioner Elfering. Carried, 3-0.

2. Creation of Position – Human Services. Presented by Amy Ashton-Williams, Human Services Director (video connection). Authorization is sought for creating a new peer position. Funding was awarded from GOBHI through a state opioid response grant for the purpose of hiring a peer for Substance Abuse Treatment. This would be someone out in the community with partners (hospitals, medical professionals). This is one year in duration and would continue based on GOBHI's funding availability for opioid response. **Commissioner Elfering moved to approve the new peer mentor position subject to continuation of grant funding. Seconded by Commissioner Murdock. Carried, 3-0.**
3. Uncollectible Taxes. Presented by Doug Olsen. As provided by law, a number of personal property tax accounts for manufactured structures are up for cancellation. The units have been removed from the county, destroyed, or of no more value and the county can't collect taxes through seizure and sale. **Motion was made by Commissioner Elfering to adopt Order No. TX2020-05.** This is essentially a housekeeping action (as per Rachael Reynolds, now in the meeting room). **Seconded by Commissioner Murdock. Carried, 3-0.**
4. A&T Organization/Department Structure. Presented by Rachael Reynolds, Assessment & Taxation Director. With her assuming the director position upon recent retirement of prior director, she reviewed the needs of the department and recommends a new structure for successful transition of leadership. **Commissioner Murdock moved to approve the organizational chart and positions. Seconded by Commissioner Elfering. Carried, 3-0.**
5. Road Vacation. Presented by Matt Kenny, Public Works Survey Supervisor. This is for the vacation of a portion of a street. Tamarack Avenue is located in Hermiston near Highland and an elementary school. A petition was signed by 100% of owners to vacate a portion. He has reached out to Bob Waldher, County Planning Director, and Clint Spencer, Hermiston Planner, looking at needs and public interest for the overall view of the county. His recommendation includes their comments. He then highlighted his report, referring to the location map on pg. 13. The goal of current east/west road, Tamarack Avenue, shows vacation would be a better road network for the public. Primary concern would be land locking one parcel. But with a

recommendation letter received from the city regarding the process, they feel adequate access will be provided through proposed development, and it is hoped the developer and any concerns of the county and city are addressed.

In response to Chair Shafer's question about what happens if the property in question is sold, Mr. Kenny advised it could be a problem that a new purchaser would have to address. The city provides access to the parcel via this revised road network. And the city is somewhat satisfied with it. Mr. Spencer has sent an email with preliminary approval. Commissioner Elfering asked, are we getting the cart ahead of the horse? Mr. Kenny advised Tamarack Avenue is to be approved first by the city and future development would be contingent upon this Board's order. Mr. Olsen also added regarding timing, as long as Tamarack is there, the subdivision can't be finalized; the street must go away before that can be accomplished. The Order is written such that it is conditioned upon the new subdivision being platted and that the one property won't be landlocked. **Commissioner Elfering moved to adopt Order No. RD2020-14. Seconded by Commissioner Murdock. Carried, 3-0.**

6. Adams Community Benefit Plan Grants. Presented by Commissioner Elfering. This is for approval of two grants from the Adams Community Benefit Plan recommended in this round: East Umatilla County Ambulance Area Health District, \$5,000 towards purchase of an ambulance; and City of Adams, \$30,000 for city park creek bank stabilization. **Motion was made by Commissioner Elfering to adopt Order No. BCC2020-070. Seconded by Commissioner Murdock. Carried, 3-0.**
7. Sam Cook Building Repairs Payable. Presented by Dan Lonai, Administrative Services Director. This is for a payable for repairs to the Sam Cook Building. As a result of sewer flooding, the flooring needed replacing -- cost of \$6,602.51 payable to Pendleton Floors, Inc. In response to Commissioner's question about insurance coverage, Mr. Lonai noted there is a \$1,000 deductible. Also, some other items needed to be taken care of with flooring replacement. Mr. Olsen advised the insurance check received was over \$13,000. **Commissioner Elfering moved to approve the payable. Commissioner Murdock seconded. Carried, 3-0.** There was some discussion about the county won't own this building soon and questioned the expense.
8. Boiler Repair Payable. Presented by Mr. Lonai. This is for the boiler at the Stafford Hansell Government Center. Parts are needing replaced; maintenance needs at this time equals \$8,642, payable to HMS Commercial Service, Inc. It is getting to the point damage on the heat exchanger means expenses in the near future for replacement. A rough estimate of that cost is like here at courthouse (which is about \$80,000 /boiler). Discussion ensued about life of equipment and it seems newer things seem to wear out quicker. SHGC boilers are about 15 years old. He is trying to get more efficient and quality when upgrading to make equipment last longer whenever possible. **Commissioner Elfering moved to approve the payable. Commissioner Murdock seconded. Carried, 3-0.**
9. HVAC System Payable. Presented by Mr. Lonai. This payable is for maintenance of the HVAC system at the courthouse, including cleaning coils in air handlers for more efficiency. The total amount is \$8,054 payable to HMS Commercial Service, Inc. **Commissioner Murdock moved to approve the payable. Commissioner Elfering seconded. Carried, 3-0.**
10. Elections Scanner Purchase. Presented by Mr. Lonai. This is for scanner and signature verification software for signature verification of ballots. This is another process to auto verify vs. by person. He applied for grant with the Center for Tech & Civic Life and was awarded \$46,134 to completely cover the purchase. In response to a question by Commissioner Elfering about any reduction in costs of overhead and if the software has been tested, Mr. Lonai noted there is one provider for this software and it has been tested in some bigger counties. Yes, it should improve reduce costs with less people handling, but at the same time there are more ballots to process (38,000 compared to about 46,000 this year). He anticipated we will get 20% of the ballots on election day and staff and volunteers must be here at 5 a.m. All counting is on hold until each ballot is verified. Rules

and regulations are set by the state regarding verification of the ballot counting system – it is a similar process with this new equipment/scanner. **Commissioner Murdock moved to approve purchase and adopt Order No. BCC2020-071 (authorizing contract for services from Kelley Connect Services by alternate contracting method (single seller) for the voter signature verification system). Commissioner Elfering seconded. Carried, 3-0.**

11. **BOPTA Board Appointments**. Presented by Mr. Lonai. Two members of the Board of Property Tax Appeals no longer want to serve. There are two new members recommended for appointment for 2020 tax appeals. **Commissioner Murdock moved to adopt Order No. BCC2020-069: Commissioner Bill Elfering (county governing body pool), and Jerry Baker and Chris Wallace (non-office holding pool). Commissioner Shafer seconded. Carried, 2-1. Abstention was by Commissioner Elfering (due to conflict).**
12. **Transit Planning Grant**. Presented by Bob Waldher, Planning Director. He is seeking approval to apply for Needs-Based CARES Act grant funding to help with post COVID transit information to riders as well as assisting in development of a transit assistance plan. He turned the floor over to Staci Kunz, Transit Coordinator (however, due to tech difficulties, she couldn't be heard). Mr. Waldher continued that it is recommended to maintain a transit plan along with other necessary documents. Funding is now available through the CARES Act. The county would be the recipient of funds then could hire the coordinator for post COVID activities as well as developing a transit plan. CARES funding is \$356,000. Long term needs relate to the plan portion. Commissioner Elfering asked about supporting the program after CARES funds are gone and Mr. Waldher advised most of the funding would go to develop the plan as well as follow-up from COVID and impacts on ridership. No funds will go to adding more routes – most changes in services will come from other ODOT funds (i.e. STIF dollars). **Commissioner Elfering moved to approve the application and contract for services. Commissioner Murdock seconded. Carried, 3-0.**
13. **Environmental Health 2021 License Fee**. Joe Fiumara, UCo Health Director. Some extra funds (contingency) are available in the Environmental Health Program, and he is seeking approval to apply these funds towards license renewals for next calendar year. The licensees were hit hard this year with COVID restrictions. It is proposed to discount 40% for renewal licenses for 2021 calendar –restaurants, hotels, pools, RV parks, as well as all child care facility inspections in 2021. It is unknown how many businesses will be trying to keep going. Again, this would be covered by contingency funding. And, it is also for Morrow County. **Commissioner Elfering moved to approve. Commissioner Murdock seconded. Carried, 3-0.**

Executive Session – none.

Commissioners' Reports

Commissioner Elfering: regarding the KOHU Odds & Ends appearance this week, Dale Primmer, Community Corrections, will fill in for him.

Commissioner Murdock: nothing

Commissioner Shafer: nothing

The meeting adjourned 10:40 a.m.

Respectfully submitted,

Melinda Slatt

Executive Secretary, Umatilla County Board of Commissioners