

**MINUTES OF THE MEETING
BENTON COUNTY BOARD OF COMMISSIONERS**

Zoom link: <https://us06web.zoom.us/j/88934077467?pwd=ZmhVWC9DejVaSlFLQ0FpdFlZdk5qUT09>

Livestream: <http://facebook.com/BentonCoGov>

Tuesday, February 21, 2023

9:00 a.m.

Present: **Pat Malone**, Chair; **Xanthippe Augerot**, Commissioner; **Nancy Wyse**, Commissioner; **Vance Croney**, County Counsel; **Joe Kerby**, County Administrator

Staff: **Laurel Byer**, **Darren Nichols**, **Greg Verret**, **Inga Williams**, Community Development; **Cory Grogan**, Public Information Officer; **Suzanne Hoffman**, **April Holland**, **Jasper Smith**, Health; **Nick Kurth**, JSIP; **Gordon Kurtz**, Public Works; **Adam Loerts**, Information Technology; **Amanda Makepeace**, BOC Staff; **Erika Milo**, BOC Recorder; **James V. Morales**, Records & Elections; **Jef Van Arsdall**, Sheriff; **Matt Wetherell**, Juvenile Department

Guests: **Brittany Beyer**, **Colin Bussell**, **Dawn Gallagher**, Solarity; **Cynthia Crosby**, **Ken Eklund**, **Claire Fulsher**, **Kevin Fulsher**, **Bill Gellatly**, **Connie Jordan**, **Bob Larkin**, **Debbie Palmer**, residents; **John Harris**, Horsepower Productions; **Raymond Hill**, **Dan Oleson**, LS Networks, **Sam Imperati**, ICM Resolutions; **Tracy Lang**, **James Thom**, HP Corvallis; **Hyatt Lytle**, Corvallis City Councilor; **Andree Phelps**, Attorney; **Mike Reeder**, Attorney; **James Rennard**, Pioneer Connect; **Alex Powers**, Mid-Valley Media; **Jennifer Williams**, Corvallis Advocate

1. Opening:

1. Call to Order

Chair Malone called the meeting to order at 9:01 a.m.

2. Introductions

3. Announcements

2. Comments from the Public

**Bill Gellatly, Corvallis resident:* Gellatly, a retired mechanical engineer, asked the Board to consider these questions regarding Coffin Butte Landfill (CBL):

- Has there been a supplier analysis of Republic Services as if evaluating a new operation? How does RS compare with other suppliers in quality, technology, or environmental compliance issues?
- Has the Board asked RS to provide plans to address long-term problems of water treatment or ways to drive recycling issues back to the suppliers?
- Is there a plan to ensure that the substantial franchise fee increases will assure continuous improvement of operations at CBL? Might some of the franchise fee increases be tied to RS meeting improved rates of returning recycled plastic materials to the supply stream?

{Exhibit 1: Gellatly Letter on Coffin Butte Landfill}

Debbie Palmer, resident: Palmer stated it was her understanding that the County would hire an independent third party to help create a request for proposals for the Sustainable Materials

Management Plan. If so, Palmer asked that the County solicit information from the community on who the consultant should be.

3. Review and Approve Agenda

The following item was removed from the agenda:

4.4 **Benton County Talks Trash Budget Review and Request** – *Darren Nichols, Community Development; Sam Imperati, ICM Resolutions*

The agenda number for **Broadband 101** was corrected from 4.5 to 4.6.

4. Work Session

4.1 ***Letter of Support Regarding CHIPS (Creating Helpful Incentives to Produce Semiconductors) Act Application** – *James Thom, Director of Operations, HP Corvallis*

Thom described the 2022 CHIPS Act, which offers \$52 billion to incentivize domestic manufacturing capacity. The CHIPS Act request for proposals is expected this week; HP intends to apply by May 2023 and would like to include letters of support from the Board and others. The HP Corvallis campus is the only HP semiconductor processing and assembly facility in the United States and is the most advanced microfluidics facility in the world. HP will seek funding for new advancements in printing technology and possibly other projects depending on funding requirements. HP will also apply for an enterprise zone in Benton County in March 2023, working with Jerry Sorte, Corvallis-Benton County Economic Development Office. Thom can provide information on HP utility usage and wastewater. Thom invited the Board to tour the facility and asked what other topics the Board would like addressed.

Augerot noted that if HP Corvallis brings in additional employees, housing will be a challenge, and asked how HP could help forge solutions for housing issues.

Wyse noted that an enterprise zone includes tax incentives for HP, and asked how that would impact the government.

Thom replied the Federal government is evaluating CHIPS applications based on community, city, county, and state support, and wants to see state financial commitment, which Thom is working on through Business Oregon. HP Corvallis is also part of an e-commerce zone.

Augerot asked if an enterprise zone is usually limited duration.

Thom confirmed a zone usually lasts three to five years. HP will probably request five years. There is potential for renewal based on job and wage criteria.

Malone asked what it would look like if HP succeeds in this initiative.

Wyse shared a community member chat question asking how much land HP has and whether HP will need more.

Thom replied that all work will be done within HP's existing buildings.

Augerot shared that Linn-Benton Community College (LBCC) is considering what programs to provide to support the local economy; Augerot mentioned to LBCC that HP was interested in this expansion.

Thom replied that HP helped design and provides instructors for the LBCC electronics program; HP hires interns from the program every year and actively recruits from it.

Responding to a question from Wyse, Thom shared that HP is requesting the letter of support in March or April 2023, before the early May 2023 application.

{Exhibit 2: CHIPS Presentation}

4.2 COVID Update from Department Operation Center – April Holland, Health Services

Holland reported that 250 people were hospitalized with COVID-19 statewide as of February 13, 2023, an increase from 219 two weeks ago, after a low of 203 on February 4, 2023. The last peak was 370 hospitalizations statewide in November 2022. As of yesterday, 153 people were boarding (waiting for a bed) in hospitals statewide, down from a peak of 355 at the end of 2022. About 5% of occupied Intensive Care Unit beds are filled with COVID-19 patients statewide; available beds have returned to levels seen before the end of 2022 surge. Variant XBB1.5 is advancing and estimated to make up over half of new infections in the Pacific Northwest. XBB1.5 does not seem to cause more severe disease than the original Omicron strain, but is more contagious. Reported COVID-19 cases are low in BC, as people are mainly using rapid antigen tests at home; it is estimated that about 5% of cases are reported. The week of February 5, 2023, Benton County had 77 reported cases, for a seven-day rate of 83 cases per 100,000 residents. Last week's testing positivity rate was 16%, which is high and indicates more cases are likely present, up from 11.7% two weeks ago. Wastewater signals continue to be elevated. Holland encouraged all to get the bivalent booster. About 28% of BC residents have received the booster, including 83% of residents ages 65 and up. Staff have been distributing the figures from the previous report about bivalent booster immunity through social media and partner emails. Tests are still widely available. If you test positive, consider getting assessed for treatments, especially if you are at high risk.

The Federal COVID-19 Emergency Declaration ends May 11, 2023. During the emergency, the Federal government extended health coverage, long-term services and support, and food benefits. Some of these temporary programs end soon. Oregon Health Authority and Oregon Department of Human Services are working to preserve benefits for as many people as possible and ensure coordination of additional resources. Staff should soon learn more about specific funding for vaccines, personal protective equipment, and tests for local Public Health, such as whether these can be purchased with remaining COVID-19 funds, or if additional funding may be coming.

Augerot noted that cold weather is expected again this week and staff are preparing inclement weather sheltering.

Malone asked about vaccination options for people who have not had the full series or the bivalent booster.

Holland replied that providers, pharmacies, and SamCare Express locations offer the primary series and bivalent boosters. The County COVID-19 information line is still available.

4.3 *Update from Benton County Talks Trash (BCTT) Solid Waste Process Work Group (WG) – Darren Nichols, Community Development

Regarding Palmer's comment, Nichols noted that a Sustainable Materials Management Plan (SMMP) consultant is needed, but candidates have not been discussed yet. The BCTT WG will help advise on the scope of the SMMP and consultant criteria. Nichols did not expect to use a third party to help make the selection.

Imperati shared an updated WG schedule (exhibit 3):

- March 1, 2023: Subcommittees will create report draft five, to be issued March 3, 2023.
- March 4-5, 2023: public survey opens, focusing on the public's reactions to the subcommittee recommendations.
- March 9, 2023: public virtual open house.
- March 13, 2023: final draft six to be published with survey results.
- March 17, 2023 staff and Imperati start assembling final report.
- March 24, 2023: final report to Board, to be published the week of March 26, 2023.
- April 18, 2023: WG to present at Board initial work session on this topic.

Imperati and Malone expressed appreciation for the significant time commitment that WG members have put in.

Nichols concurred. Members contributed well over 2,000 hours of volunteer time. Nichols also thanked staff including Grogan, JonnaVe Stokes (Communications), and Sarah Siddiqui (Equity, Diversity, & Inclusion) for helping prepare the open house. The communications team plans to translate materials into Spanish and American Sign Language.

{Exhibit 3: Updated BCTT Schedule}

4.4 Benton County Talks Trash Budget Review and Request – Darren Nichols, Community Development; Sam Imperati, ICM Resolutions

This item was postponed.

4.5 *Update from Justice System Improvement Program – Nick Kurth, Justice System Improvement Program Manager

Kurth reviewed recent JSIP milestones. January 2023: final Community Advisory Committee meeting, Board's bond package decision. February 2023: staff submitted the bond measure title, which is under review and should be accepted shortly. The final JSIP Executive Committee meeting was last week, followed by an open house. Counsel to submit the bond measure/explanatory statement to the Board today (item 8.2). Remaining milestones: February/March 2023: submit materials for safe harbor review, community informational events. April 2023: mailer sent to residents. May 16, 2023: bond measure vote.

Kurth shared feedback on the open house; venue and format were well received, with considerable community interest and demand. This was the sixth large JSIP community event since mid-2021. Staff have held more than 50 small group presentations/meetings, which are ongoing. The open house had at least 200 community participants plus electeds and staff, with strong media coverage; 82 questionnaires were filled out. Kurth thanked Lindsey Goodman (JSIP), Grogan, Brenda Downum (Communications), Stokes, and Marriah De La Vega (Board's Office).

Grogan described media coverage of the open house, including television, radio, and newspapers. The County advertised in local media and sent a mailer to all County residents as well as email lists and e-newsletters. Social media coverage was in the thousands.

Malone praised the event format and asked if this was the last large format JSIP presentation.

Kurth confirmed, but public engagement will continue. Kurth showed a video of the open house event. Staff and the Board thanked Harris for help with the video.

Augerot praised the event and the thoughtful questions from community members. Augerot felt there was a lot of community support and felt very optimistic.

Van Arsdall echoed feeling very optimistic.

Van Arsdall, Kerby, and the Board thanked staff.

{Exhibit 4: JSIP Open House Video}

Chair Malone recessed the meeting at 10:16 a.m. and reconvened at 10:22 a.m.

4.6 Broadband 101 – Adam Loerts, Information Technology Services; Brittany Beyer, Dawn Gallagher, Solarity Representatives

Loerts explained that in 2021, a consortium of counties convened a Broadband Action Team (BAT), partnering with Oregon Cascades West Council of Governments (COG), which commissioned Solarity to study broadband access in the mid-Willamette Valley.

Beyer introduced Solarity, which provides broadband planning, mapping, outreach, and grant application assistance. Broadband means an always-on high-speed internet connection with specific technical specifications. Schools, libraries, hospitals, and municipality buildings need to be wired to 1 gigabyte capacity. Broadband providers depend on subscriptions, so suburban and especially rural areas are usually underserved. Beyer emphasized adoption, affordability, and access. Adoption: even if the infrastructure is there, people may need assistance to use or afford the service. Affordability: there is some Federal low-income assistance to reduce internet cost. Affordability is a bigger priority in urban areas, while access is a bigger priority in rural areas.

Broadband is an equity issue. Since the pandemic, everyone needs access to remote education and telemedicine. Emergency services and businesses are now highly tech-dependent. Many jobs and social services are only accessible online. Areas that provide return-on-investment have already been served; the remainder need public-private partnerships or provider incentives to close the gap. Many grants require matching funds. Beyer recommended reading the Oregon Broadband Strategic Plan from the Oregon Broadband Office (OBO).

COG tasked Solarity to create a Broadband Strategic Plan by the end of 2023. Solarity began with outreach in 2022 about the statewide program Faster Internet Oregon (FIO), which allows users to do home speed tests. Beyer showed a map of internet speed variation in the County, based on FIO data. Best speeds are in the City of Corvallis. A United States Department of Agriculture (USDA) \$25 million grant was just awarded to Pioneer Telephone to improve service in the area between northwest Benton and northeast Lincoln County. Monroe Telephone

Company is a protected area under USDA. Long-term strategy needs to focus on areas that do not have those solutions.

The Infrastructure Investment and Jobs Act (IIJA) passed in 2021, including \$42 billion for broadband nationwide. Oregon has already received \$5 million for planning and will receive \$550 million for infrastructure and related grants and \$782,193 for digital equity work. Grants will most likely be issued mid-2024. OBO will oversee about \$120 million in US Treasury Capital Projects Funds for Technical Assistance Grants to be awarded spring 2023, and Broadband Infrastructure Grants available fall 2023. Other sources: USDA ReConnect (November 2023 deadline), Economic Development Authority (Federal grants for smaller projects), and American Rescue Plan Act (ARPA).

The Broadband Equity, Access & Deployment (BEAD) five-year plan and Economic Development Authority five-year plan will probably be approved in fall 2023; then each state must submit a plan to allocate its IIJA grant. Municipalities can prepare for potential broadband infrastructure builds by studying current coverage, considering a County-level point of contact, and working on matching funds. Counties can also form a county-level BAT or other structure, and consider applying for a Broadband Technical Assistance Program level one project.

In March 2023, Solarity will deliver a near-term broadband funding matrix to COG. Outreach, surveys, and speed tests will continue. Rapid Design Studies will show the cost to close the gap in areas of concern. Solarity recommends that County leaders support the FIO speed test initiative, align interested parties, and consider funding options.

Loerts to send more information, including talking points to share with other electeds.

Augerot expressed concern about uneven coverage in Corvallis, in addition to gap areas, and asked how much Corvallis had engaged with the contract.

Loerts replied that Corvallis is not part of the BAT, but had been involved in some community efforts.

Augerot noted Corvallis is a critical partner, with the majority of Benton's population. Service is also a matter of economic competitiveness, such as being able to support the HP buildout.

Loerts stated that this study will examine options as well as availability. This data is focused on rural broadband availability, but will provide information that also helps urban areas.

Beyer added that each County asked Solarity to work on a business-specific survey. If there are areas of concern in Corvallis, make sure internet users are taking speed tests, which allow Solarity to analyze the information and take that to providers. The overall strategy will be about closing gaps between urban areas, but city hubs will not be forgotten.

Malone asked if IIJA funding goes to states, after which counties compete for grants.

Beyer confirmed.

Loerts explained the OBO has expanded to help address this issue and has a larger committee working on how to divide funding among counties. The mapping will be a living document of broadband as a utility, and will give the County a new information tracking resource.

Malone asked about the relationship between the Benton County Information Technology (IT) Department and COG regarding grant applications.

Loerts is a member of the regional BAT and provides information to the IT team. COG is taking the lead on working with Solarity, but BAT will work with Solarity's plan, develop strategies, and return to the Board about match funding.

Augerot asked if Loerts had done external networking with local internet providers.

Loerts replied that many providers are involved in BAT, and BAT keeps providers up to date.

Malone emphasized telling the public about the speed tests. More participants means better information, which improves the County's chance of getting grants.

Loerts shared that Grogan and Stokes have been spreading the word on all County channels.

5. Consent Calendar

5.1 In the Matter of Appointment to the Benton County Planning Commission: Ed Fulford

5.2 In the Matter of Reappointments to the Community Services Consortium Community Action Advisory Council: Cookie Johnson, Mark Edwards, Jerry Groesz

5.3 In the Matter of Approving the Minutes of the February 7, 2023 Tuesday Board Meeting

5.4 In the Matter of Approving the Minutes of the March 22, 2022 Information Sharing Meeting

5.5 In the Matter of Approving the Minutes of the February 22, 2022 Information Sharing Meeting

5.6 In the Matter of Approving the Minutes of the January 25, 2022 Information Sharing Meeting

MOTION: Augerot moved to approve the Consent Calendar of February 21, 2023. Wyse seconded the motion, which **carried 3-0.**

6. Public Hearing

PH1 In the Matter of a Public Hearing and Potential First Reading of Ordinance 2023-0318 Revising Benton County Code (BCC), Chapters 4, 5, and 6 – James V. Morales, Records & Elections

Chair Malone opened the Public Hearing at 11:15 a.m.

Staff Report

Morales explained the revision was mainly clean-up after staff identified areas of concern for the process. Chapter 4: the filing deadline for a commissioner candidate was updated to align with Oregon Revised Statutes (ORS). Chapter 5: an update on advisory measures, which Morales

proposed because there was an instance of an advisory measure that went out to the community, but staff did not have any guidance. There is no State guidance. Morales' concern was the space that an RCV contest or advisory measure takes on a ballot. The change clarifies that three dates in the two-year election cycle (besides primary, general, and special district elections) are available for advisory measures. Chapter 6: makes code on voters pamphlet distribution more clear and less restrictive, allowing options such as placing the pamphlet in the ballot envelope. A redundant section was removed.

Augerot noted that in chapter 6, clauses 6.305(2)(b)(ii) and 6.405(2)(b)(ii) state: "The Elections Office shall reject any argument which: incites, promotes, or advocates hatred, abuse, violence, or hostility toward or which tends to cast ridicule or shame upon any person or group by reason of race, color, religion, or manner of worship." Augerot opined that this should include gender, or refer to State anti-discrimination statutes.

Counsel was fairly certain that the proposed language mirrored ORS or Oregon Administrative Rules, and that the phrase 'which tends to cast ridicule or shame upon any person' might be broad enough to capture Augerot's concern.

Augerot requested that staff investigate a more specific approach.

Morales asked if it would be possible to pass the Ordinance saying staff will add gender to those sections.

Counsel preferred to research the item first.

Public Comment

No comment was offered.

Because the Ordinance as written included all three chapters, Counsel recommended that the Board postpone the vote on this item until the March 7, 2023 board meeting.

Chair Malone continued the Public Hearing to March 7, 2023 at 11:00 a.m., time certain or as soon thereafter as the matter may be heard.

PH2 *In the Matter of a Public Hearing Regarding an Appeal of Planning Commission Land Use Decision Regarding LU-22-023; Jordan – Inga Williams, Community Development

Chair Malone opened the Public Hearing at 11:30 a.m. Malone explained that the applicable substantive criteria on which this case shall be decided are found in Benton County Code (BCC) 55.120, 55.405, 99.810, and 99.705. Applicants have the burden of proving that all of the relevant approval criteria have been met.

The Board had no bias, conflict of interest, or ex parte contacts to declare.

Staff Report

Williams explained that Community Development (CD) received this application for an accessory farm help dwelling for a relative of the farm operator on March 21, 2022. CD denied the application. The decision was appealed to the Planning Commission (PC), which denied the appeal. The applicants appealed the PC decision to the Board. March 21, 2023 is the final state-mandated deadline for all County-based appeals. The property contains 64 acres zoned Exclusive

Farm Use (EFU). Cynthia Crosby is the farm operator and Connie Jordan is the farm owner. Claire and Kevin Fulsher are relatives who provide help to Jordan and Crosby.

Staff concluded the application meets all criteria except BCC section 55.120(1)(b): “the relative’s assistance in the management and farm use of the existing commercial farming operation is required by the farm operator.” The decision rested on two issues: when is farming a commercial farm operation (CFO), and how does the word ‘require’ apply to the applicant’s stated need. Staff used the objective criteria established by the Land Use Board of Appeals (LUBA) to determine that the appellants’ operations do not rise to level of a commercial farming operation, based on a minimum parcel size of 80 acres, a minimum \$80,000 gross income for primary or accessory farm dwelling, and the definition of a commercial agricultural enterprise in Oregon Administrative Rules (OARs). Staff concluded that live-on farm help is not required. Claire and Kevin Fulsher already provide supplemental help within a 15-minute drive from the property. Appellants also rely on help from neighbors, a part-time employee, and others. The appellants have retirement savings and thus do not rely on this farm for their living.

Williams noted that the appellants and their attorneys have submitted supporting documentation. While appellants and attorneys do not agree with the staff assessment, those parties may not substitute their own definition of a CFO or the term ‘required.’ Staff recommended that the Board uphold the PC’s denial of the appeal.

Appellants

Mike Reeder explained that he and Andree Phelps are attorneys jointly representing the appellants. Reeder provided a memo to the Board (exhibit 5) detailing the appellants’ case against the denial. Reeder cited ORS 196.307(4), which states that a local government may adopt only clear and objective standards (C&OS) for housing development. LUBA and courts have held that any standard that is not clear and objective must be waived. Reeder argued the following standards in BCC are not clear and objective and thus should be waived:

1. Does the farming operation rise to the level of a CFO?
2. When is the relative’s assistance with the management and farm use of the existing CFO required?

1. Commercial Farming Operation

Reeder stated that staff’s determination of what activities would constitute a CFO was inconsistent with prior interpretations. Staff stated that only two of the appellants’ farming operations create a profit: breeding cattle and raising hay. Reeder maintained the appellants’ apple orchard and agricultural equipment maintenance and use should also be included.

Staff stated the land was not used primarily to obtain a profit, whereas the submitted business and marketing plan shows that the primary use is for CFOs. Staff’s determination was a judgment call. Staff suggest the appellants do not rely on the farm for the majority of their income, which is inaccurate and not a criteria in code.

LUBA has dealt with questions from other counties about how to determine if a farm operation rises to the level of a CFO to merit a relative farm-help dwelling (RFHD). LUBA allows RFHDs that meet the criteria to fit in one of three safe harbors. But in the 2009 *Richards* case, LUBA held that despite those safe harbors, the County can approve an RFHD when the scale and intensity of farm use rises to the level of a CFO. Staff recognized this option in the original staff report, but that analysis was later omitted.

2. Need for Assistance; Definition of ‘Required’

Reeder addressed whether the farm operator requires assistance. The term ‘requires’ is not defined in BCC or ORS, and thus is not clear and objective. In prior decisions, staff have defined ‘requires’ as ‘less than absolutely necessary.’ Staff have shifted the definition of ‘required’ in the appellants’ case. Reeder discussed different dictionary definitions of ‘requires’ and cited cases relating to the interpretation of ‘required’ assistance and standards for a CFO:

- *Roberts Application*: County Counsel cited this case to argue that C&OS were used in the appellants’ case; however, Reeder argued that *Roberts* supports the appellants.
- *Lane County versus R. A. Heintz*, a 1961 Oregon Supreme Court case, found that the language of an ordinance must be interpreted, where doubt exists as to the intention of the legislative body, in favor of the property owner and against any implied extension of the restriction.
- *Fortier Application*: Benton County approved an RFHD on a 48-acre hazelnut farm with zero income, based on the owner’s statement that the help was required.
- *Bricker Application*: the County defined ‘required’ as ‘needed for a specific purpose,’ not ‘absolutely necessary.’ The County stated that an \$80,000 annual income is a subjective standard and a farm could be a CFO even if it does not meet that threshold, saying that the closest definition of a CFO is from the OAR definition of commercial agricultural enterprise.
- This non-specific definition was further developed by the *Richards* case, where the County admits that this is not a C&OS.
- Staff stated that ‘necessary’ as used in *Louks versus Jackson County* is different from the term ‘required’ in BCC. Staff provided no explanation of why that analysis was not applied in the appellants’ case.

Expert Testimony

Reeder provided two expert testimonials (see packet) to evidence the farmers’ production levels and need for assistance, and stated that this information was not addressed by staff. The appellants also submitted a business plan which described their desire to increase yields and productivity. The plan projects 2024 cattle and hay yields which would earn over \$80,000 per year. Reeder concluded this farm is a CFO for the purpose of obtaining a profit.

Responding to questions from Wyse, Reeder replied that the farm is not located in any UGB or incorporated area, is not currently making \$80,000 per year in profit, and is not over 80 acres in size.

No other testimony or staff response was offered.

Augerot asked whether C&OS did not prevail in this instance because those standards apply within the Urban Growth Boundary (UGB), and are pertinent to housing decisions and expansion of housing, rather than any additional housing on EFU land (which is governed by Oregon planning goal three).

Counsel replied that the courts have applied C&OS for housing both inside and outside the UGB.

Malone asked if Community Development had anything to add, since some of the appellants’ information was provided after PC deliberations.

Nichols replied that staff reviewed the additional evidence and determined it does not change staff’s original decision.

Wyse asked about the Board's options for deliberating and making a decision at a future meeting, to allow time to read the new material.

Nichols replied that the County must make its decision no later than the extended deadline of March 21, 2023, otherwise the appellants can file a mandamus.

Counsel noted it has not been unusual to continue these hearings in the past, particularly when new information was received.

The Board decided to continue the public hearing at the March 7, 2023 meeting.

Wyse asked if the prohibition on ex parte contact was still in effect.

Counsel replied that the prohibition on ex parte contact, bias, and conflict of interest still applies until the Board makes its final decision.

Chair Malone closed the record for this hearing at 12:23 p.m.

Chair Malone continued the Public Hearing to March 7, 2023 at 11:00 a.m., time certain or as soon thereafter as the matter may be heard.

{Exhibit 5: LU-22-023 Appeal Hearing Memorandum}

Chair Malone recessed the meeting at 12:25 p.m. and reconvened at 12:33 p.m.

7. Old Business

7.1 Approval of the 2023-2028 Community Wildfire Protection Plan (CWPP) – *Inga Williams, Community Development*

Malone noted that the County delayed completing the CWPP due to waiting for the State to complete the Wildfire Risk Map (WRM); however, the WRM is on hold, so the County is proceeding. Malone asked how much the CWPP had changed since spring 2022.

Williams replied the WRM is now expected to be complete at the end of 2024 and will be incorporated into the CWPP at that time. The existing WRM is an appendix of this document. Few differences are expected. Benton County is designated as low to moderate risk. The Oregon Department of Forestry (ODF) and the Fire Defense Board Chair requested a few revisions to the CWPP; staff made those changes, and those agencies approved the document.

Augerot asked if "Appendix G: Strategic Planning Areas and Projects" was a living document, to be updated with priorities and additional information.

Williams confirmed. The document will probably be updated soon if staff receive funding, because project priorities must be determined. An update involves convening all the Fire Chiefs, OSU, a steering committee, ODF, and the full advisory body with FireWise chairs and interested members of the public.

MOTION: Wyse moved to accept the 2023-2028 Community Wildfire Protection Plan as presented by staff and as approved by the Fire Defense Board and the Department of Forestry. Augerot seconded the motion, which **carried 3-0.**

7.2 In the Matter of a Second Reading of Ordinance No. 2023-0316, Development Code Amendments Regarding Stormwater – Greg Verret, Community Development; Gordon Kurtz, Public Works

Verret explained that on February 7, 2023, the Board held a Public Hearing and first reading on these code amendments. The amendments are necessary to comply with State requirements. The Ordinance is unchanged since the first reading.

MOTION: Augerot moved to enact Ordinance No. 2023-0316, amending the stormwater provisions of the Development Code, and conduct the second reading of the Ordinance. Wyse seconded the motion, which **carried 3-0.**

Counsel read the ordinance aloud (short title). Effective 3/23/2023.

7.3 In the Matter of a Second Reading of Ordinance No. 2023-0317, Benton County Code Amendment Regarding the Adair Village Urban Growth Boundary (UGB) – Greg Verret, Community Development

Verret explained that on February 7, 2023 the Board held a Public Hearing and first reading of the Ordinance. A joint Public Hearing with the Adair Village City Council was held. The Ordinance amends the UGB by adding two properties, to be rezoned from Exclusive Farm Use to Urban Residential. This is a holding zone until the area is annexed into Adair Village, at which time it will be rezoned, supplied with city services, and developed.

MOTION: Wyse moved to enact Ordinance No. 2022-0317, amending the Adair Village Urban Growth Boundary, and conduct the second reading of the ordinance. Augerot seconded the motion, which **carried 3-0.**

Counsel read the ordinance aloud (short title), to be effective March 23, 2023.

8. New Business

8.1 Revised Ranked Choice Voting (RCV) Rules – James V. Morales, Records & Elections

Morales presented revised rules for implementation for RCV. If approved by the Board, Morales will request that the City of Corvallis adopt the same rules or tie to the County rules so both jurisdictions remain aligned. The amendments are additions which capture some of the functionality in the current system and clarify the process, including:

- Defining continuing ballots.
- Clarifying on RCV returns that the County will only release first-choice rankings, and will wait until all ballots are cast before running the RCV process.
- Defining batch elimination as a process utilized when more than one candidate is mathematically eliminated from having the opportunity to win, and defining the winning threshold that comes from those continuing ballots.
- Applying automatic recount for a RCV contest to ensure consistency with the plurality voting method, where the top two candidates' number of votes is used to determine when the threshold for an automatic recount is reached.
- Clarifying that RCV would be applied in the event of a tie vote if there were two or more remaining candidates.

Counsel noted that these changes reflect the experience that Records & Elections office has gained since the original rules were created.

Malone asked if the Oregon legislature is considering applying RCV statewide.

Morales confirmed, primarily through House Bill 2004, which Speaker Dan Rayfield drafted. Morales will meet with Rayfield to discuss further. Morales has received requests to participate in many groups to provide feedback on RCV.

MOTION: Augerot moved to accept staff recommended revisions to the Ranked Choice Voting Rules for Implementation. Wyse seconded the motion, which **carried 3-0.**

8.2 Justice System Improvement Program (JSIP) Ballot Measure and Explanatory Statement for SEL 801 – Vance Croney, County Counsel; Nick Kurth, Justice System Improvement Program (JSIP) Manager

Counsel explained this is the last step in submitting the JSIP measure to the Elections Office for publication and vote. SEL 801 is the notice of the ballot measure for the election, which is submitted after the publication period. Provided there are no challenges or changes, the language on this form is the same that the Board approved two weeks ago.

Morales noted there were no challenges as of this morning.

Counsel added that the explanatory statement went through extensive edits and reflects a truly collaborative effort. If approved, Counsel will file the items on February 24, 2023.

Responding to a question from Augerot, Counsel confirmed the inclusion of the sentence, “If the bonds are approved, they will be payable from taxes on property ownership that are not subject to limits of sections 11 and 11b, Article XI of the Oregon Constitution.”

Kerby and the Board acknowledged staff for participating in this milestone.

MOTION: Augerot moved to adopt/approve SEL 801 and the explanatory statement as presented. Wyse seconded the motion, which **carried 3-0.**

9. Departmental Reports & Requests

9.1 Establish Quality Assurance Coordinator (QAC) Position in Developmental Diversity Program – Jasper Smith, Suzanne Hoffman, Health Services

Smith explained the State Office of Developmental Disability Services passed ARPA funding to Benton County for the QAC position. The position was approved by the Position Review Committee, but the Committee can only approve the position as limited duration. Staff would like this to be a full-time permanent position and expect to have long-term funding.

Responding to questions from Augerot, Smith explained that instead of providing direct services, the QAC works on administrative aspects such as foster care licensing, billing, payments, and/or protective service investigations. The County will receive State funding every two years. The County bills for services with the State, receives reimbursements through the local match program, and uses the local match to fund these positions. Funds were already received from the State and must be spent before March 2025.

Hoffman added that this position will be included in forthcoming budget information; Chief Financial Officer Rick Crager has reviewed and approved the funding plan.

MOTION: Augerot moved to approve the creation of a permanent Quality Assurance Coordinator position in the Developmental Diversity program, and begin recruitment for a potential hire date in April 2023. Wyse seconded the motion, which **carried 3-0.**

Smith shared that the Developmental Diversity Program will be in its new location at the Sunset Building on February 27, 2023.

10. Other

Wyse volunteered to serve on the Inter-Governmental Council for the Coordinated Homeless Response Office.

MOTION: Augerot moved to appoint Commissioner Wyse to serve on the Inter-Governmental Council for the Coordinated Homeless Response Office under House Bill 4123. Wyse seconded the motion, which **passed 3-0.**

Wyse shared that Branden Pursinger, Association of Oregon Counties, is seeking county data on well needs and water insecurity for the 2023 Legislative draft package. Although Benton County has not been in a formal drought, Wyse asked if staff want to be involved.

Kerby recommended that Hoffman and Kerby discuss who best to address that.

Wyse expressed interest in the project. Wyse to reply to Pursinger and forward to Kerby and Hoffman.

Augerot asked if another Commissioner could attend the ODF meeting and tour on March 8-9, 2023.


Malone could probably attend on March 9. Malone noted the Board will finish Information Sharing from the February 16, 2023 meeting at a later date.

11. Adjournment

Chair Malone adjourned the meeting at 1:14 p.m.

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Pat Malone, Chair

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Erika Milo, Recorder

** NOTE: Items denoted with an asterisk do NOT have accompanying written materials in the meeting packet.*