

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

Zoom link:

<https://us06web.zoom.us/j/85964330391?pwd=NIhwT2NZYkIQOGVhbThzRnNWWXFvdz09%3D>

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

Tuesday, March 21, 2023

9:00 a.m.

Present: **Pat Malone**, Chair; **Xanthippe Augerot**, Commissioner; **Nancy Wyse**, Commissioner; **Vance Croney**, County Counsel; **Suzanne Hoffman**, Interim County Administrator

Staff: **Julie Arena**, HOPE Project Manager; **Rick Crager**, Finance; **Cory Grogan**, Public Information Officer; **April Holland**, Health; **Amanda Makepeace**, BOC Staff; **Erika Milo**, BOC Recorder; **Darren Nichols**, **Inga Williams**, Community Development; **Jef Van Arsdall**, Sheriff

Guests: **George Foster**, **Tracy Foster**, **Kevin Kenaga**, **Debbie Palmer**, residents; **John Harris**, Horsepower Productions; **Joel Kalberer**, attorney; **Sam Imperati**, ICM Resolutions; **Rachael Maddock-Hughes**, Sequoia Consulting

1. Opening:

1. Call to Order

Chair Malone called the meeting to order at 9:38 a.m.

2. Introductions

3. Announcements

No announcements were made.

2. Review and Approve Agenda

The following item was added to the agenda:

8.1 Addressing the Community Landfill Petition and the Solid Waste Advisory Committee (SWAC) Request to Resume Meetings – *Vance Croney, County Counsel; Darren Nichols, Community Development*

8.2 Discussion of Pending Legislation Senate Bill 847-5 & House Bill 2001-B Regarding Housing and Homelessness – *Xanthippe Augerot, Commissioner*

3. Comments from the Public

Kevin Kenaga, resident: Kenaga expressed concerns about the Coffin Butte Landfill (CBL) 20-year contract with the County and upcoming Conditional Use Permit (CUP) application. Before signing the contract, the County should have secured an independent cost-benefit analysis of hosting a regional landfill, an independent environmental impact study of present and future impacts, and a Sustainable Materials Management Plan (SMMP). These items are needed before approving a CUP.

4. Work Session

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

Holland reported that as of March 15, 2023, 222 individuals were hospitalized with COVID-19 statewide, about 10 fewer than two weeks ago. As of yesterday, 173 people statewide were boarding (waiting for a hospital bed), down 11% from two weeks ago. Reported cases continue to be low in Benton County and most of the state; few cases are being reported due to widespread use of rapid antigen tests at home. Around March 15, 2023, the County had 50 reported COVID-19 cases, for a seven-day rate of 53 per 100,000 residents. The County has 1.8 new COVID-19 hospital admissions per 100,000 residents, down from 4.5 two weeks ago; 2.5% of staffed beds are in use for COVID-19 patients, down from 3%. Testing positivity fell last week from 14.5% to 10%. Wastewater signals have mainly leveled off statewide and are decreasing in the City of Corvallis. Oregon Health Authority (OHA) will no longer require masking in healthcare facilities as of April 3, 2023; staff are getting messaging out to community partners. Benton County will follow this guidance. Exceptions include providers of services for severely immune-compromised individuals, including cancer treatment centers. Public Health still recommends wearing a mask in healthcare settings, when sick, or around vulnerable individuals.

The bivalent Pfizer COVID-19 booster has been approved for children aged six months to four years, now available at provider offices. The Federal COVID-19 emergency declaration ends April 7, 2023; some benefits will be phased out. The Public Health emergency ends May 11, 2023. February 2023 was the last month of emergency food benefits. On April 1, 2023, OHA will begin re-determining Oregon Health Plan eligibility. There will be changes in funding for vaccines and therapeutics, which will become commercialized once the Federal supply is depleted. This will likely occur early in fall 2023 for vaccines and by the end of 2023 for therapeutics. Some brands of therapeutics are already commercially available. OHA and the County will need funds to purchase these items to ensure equitable access. OHA will estimate what is needed once prices are known, and has requested an operational guide for these products.

Malone asked if COVID-19 boosters were likely to be recommended in the fall, around the same time as influenza vaccines.

Holland confirmed there is likely to be more alignment with the respiratory virus season and simplified recommendations. There have been no changes to existing recommendations yet.

Malone asked if there was a combined influenza and COVID-19 vaccine.

Holland was not aware of one. There are combined tests, and there might be a recommendation to get both vaccines at the same time. There have been promising trials on respiratory syncytial virus vaccines for older adults.

4.2 Update from Benton County Talks Trash (BCTT) Solid Waste Process Workgroup (WG) – Darren Nichols, Community Development

Nichols provided an update on the BCTT WG schedule:

- March 17, 2023: public survey about report draft five opened; resulting data in draft six.
- March 21, 2023: WG members receive draft six and complete a survey on their level of agreement with the findings.
- March 23, 2023: last full WG meeting, with two extended public comment periods. The Board will attend. Any remaining disagreements will be presented as part of the findings.

There is substantial agreement now. Past and present WG and subcommittee members can submit a personal statement for the final report by April 1, 2023.

- March 27-31, 2023: WG subcommittee members will be on call for clarifications.
- April 3, 2023: final contents-only report delivered to the Board and the public.
- April 4, 2023: open house on the report, beginning a public comment period through May 26, 2023.
- April 18, 2023: polished report will be formally presented to the Board.

Substantial public outreach has included a mailer sent to every County property. Nichols anticipated completing the work on schedule, and emphasized that for the first time ever, the County has a thorough history of Coffin Butte Landfill, a list of issues, community perspectives, and historical documents all in one place.

4.3 Budget Discussion: Benton County Talks Trash Solid Waste Process Workgroup – Darren Nichols, Community Development

Nichols explained that as the scope of the BCTT project expanded, the budget has expanded. In January or early February 2023, work time almost doubled, with Imperati and team spending more time in active mediation, not just facilitation. The Board-approved budget was \$153,000; the project passed that amount in mid-February 2023. Now there is a much clearer estimate of remaining costs. The complete budget for the project through June 2023 will be \$236,404.84. Factors in the increase:

- Fees for community-based legal counsel, which was added to represent the public on the Legal and Land Use Subcommittee.
- Complexity of the project and level of conflict.
- Personal family matters for Nichols, which required Imperati and team to perform more project management duties.
- Expansion of the project, largely due to requests of the WG members.
- Additional public outreach, engagement, and surveys, which required additional coordination with the facilitators to ensure consistent messaging.

Nichols concluded that participants feel the project is important and needs to be completed.

Wyse asked if the BCTT budget has been publicly shared, as requested by a member of the public at a previous Board Meeting.

Nichols replied that invoices through February 2023 were shared with the WG and on the public County website.

Wyse asked if there was an alternative if the Board did not provide the funding.

Nichols did not have an alternative and did not recommend that approach.

Wyse explained that the question served to highlight that the County does not have many other options, and needs to finish the work. Wyse asked if this budget is still a very small percentage of landfill revenue.

Nichols confirmed this budget represents about 5-10% of one year's revenue.

Augerot agreed this was a small fraction of landfill revenue; the County should have invested some funds for this each year, instead of all at once. Augerot supported finishing the project.

Malone stated this project is an investment and a roadmap. Most of the increase has already been incurred, requiring about \$25,000 to finish up.

Wyse noted that Imperati has discounted fees by \$20,400 so far. Wyse asked if this is the last BCTT budget expansion.

Nichols affirmed.

Imperati affirmed, and will continue to discount remaining bills by 8-9%.

MOTION: Augerot moved to approve the additional sum of \$83,405 to account for the remainder of the Benton County Talks Trash project. Wyse seconded the motion, which **carried 3-0.**

5. Consent Calendar

5.1 In the Matter of Approving the Minutes from the March 7, 2023 Board Meeting

Wyse noted a correction to the March 7, 2023 minutes: on page six of eight, “protect rural character and keep density cities” should read “protect rural character and keep density in cities.”

MOTION: Wyse moved to approve the Consent Calendar of March 21, 2023 with the correction as noted. Augerot seconded the motion, which **carried 3-0.**

6. Public Hearing

PH 1 In the Matter of a Public Hearing to Close Out a Community Development Block Grant (CDBG) Childcare Scholarship Project – Rick Crager, Financial Services; Rachael Maddock-Hughes, Sequoia Consulting

Chair Malone opened the Public Hearing at 11:00 a.m.

Crager explained that the Public Hearing is part of the requirements for receiving the CDBG award. Notice was posted as required in English and Spanish.

Maddock-Hughes read the report aloud in English.

Makepeace read the report aloud in Spanish.

Public Comment

No comment was offered.

Chair Malone recessed PH 1 at 11:07 a.m.

PH 2 In the Matter of a Public Hearing to Close Out a Community Development Block Grant (CDBG) Food Assistance Project – Rick Crager, Financial Services; Rachael Maddock-Hughes, Sequoia Consulting

Chair Malone opened PH 2 at 11:07 a.m.

Maddock-Hughes noted an error in the public hearing notice as published: “56,000 persons” should read “46,000 persons.” Maddock-Hughes read the report aloud in English.

Makepeace read the report aloud in Spanish.

Public Comment

No comment was offered.

Chair Malone recessed PH 2 and reconvened PH 1 and PH 2 into a joint Public Hearing at 11:13 a.m.

Maddock-Hughes gave a presentation on CDBG COVID-19 relief funding. Benton County received:

- \$250,000 for childcare, plus \$50,000 from the Ford Family Foundation, providing scholarships for 126 children of low- to moderate-income families to attend childcare, after school, or school break programs. The County partnered with United Way. The grant ran from January 2022-March 2023. Challenges: Housing & Urban Development bureaucracy and paperwork made it difficult for some families to apply; the reimbursement-based program was difficult for childcare organizations; this is one-time funding.
- \$250,000 for the Linn-Benton Food Bank, providing a refrigerated truck and food from February 2022-March 2023. Nearly 50,000 people in both counties benefited. Challenges: equipment procurement delays due to supply chain issues.
- \$485,000 for housing. The County partnered with DevNW. The grant runs from September 2022-September 2023.

Maddock-Hughes shared positive feedback from grantees. Childcare costs continue to be a challenge for many families. There is more need than this program was able to meet. Staff recommend that the County continue this program if other funding can be sourced.

Crager added that the American Rescue Plan Act and CDBG offer about \$90,000 for affordable housing and homelessness prevention. The County had difficulty spending all childcare assistance funds by April 1, 2023; however, Business Oregon has provided more flexibility.

Maddock-Hughes shared that the remaining funding was because one of the childcare grantees could not use the funding within the time limit.

Augerot noted that CDBG funds are challenging to administer, but benefit community organizations and families who need the support.

Malone concurred and asked about future funding prospects for these programs.

Maddock-Hughes and Crager had discussed that some County funding may be available, depending on several other projects. It is worthwhile to seek funding for people who are asset limited/ income constrained/ employed, but are above the State level for receiving assistance. Maddock-Hughes recommended working with a research partner such as Oregon State University or the Brookings Institute to demonstrate long-term impact.

Crager added this can be discussed with the Board during the budget process. Childcare is a County priority. Oregon Community Foundation has provided opportunities through State legislative appropriations, which could be pursued with the County lobbyists.

Augerot will meet with staff from Early Learning Hub, who want to partner with businesses and state agencies to offer daycare programs at job sites.

MOTION: Wyse moved to accept both reports as presented. Augerot seconded the motion, which **carried 3-0.**

Chair Malone closed PH 1 and PH 2 at 11:32 a.m.

PH 3 In the Matter of a Public Hearing for a Land Use Appeal: Foster – Darren Nichols, Community Development

Staff report

Nichols explained this is an appeal of a land use approval, which allows the County to revise the conditions of approval. On January 17, 2023, the Planning Commission (PC) approved expansion of the quarry with certain restrictions to protect water quality in a stream. Later, quarry owner-operators George and Tracy Foster discovered that the stream was not mapped correctly. Community Development staff visited the site on March 3, 2023. The quarry is an important resource for the Community of Alsea, but protecting water quality is also important. Staff suggested an alternative way to protect water resources while allowing the quarry to operate. The Oregon Department of Geology and Mineral Industries (DOGAMI) already monitors stream runoff; applicants are also required to do third-party testing; a three-part settling area is working well. The applicant will continue to provide test results; if testing does not meet standards, the County can inspect and, if necessary, close the quarry until steps are taken. The applicants also mentioned a complaint about noise monitoring. The nearest houses are about half a mile away from the quarry. Under initial conditions, anyone could file a noise complaint; applicants asked to limit this to surrounding neighbors.

Responding to a question from Wyse, Counsel confirmed this is a de novo hearing.

Augerot was glad to see the letter of support from Steve Trask, a statewide expert on salmonids.

Nichols added that Trask is a near neighbor of the quarry.

Wyse asked about improperly handled waste materials and pollutants mentioned in sub-packet 1.

Nichols explained these were prior conditions that the Fosters cleaned up. When staff visited the site, the waste material and equipment had been removed, and erosion conditions and oil contamination had been cleaned up.

Public Comment

G. Foster explained that the prior operator had a great deal of equipment and had limited time to remove material from the property. After the 2019 DOGAMI report, the Fosters cleaned up the material within 30 days and received a clean bill of health from the Department of Environmental Quality (DEQ).

Kalberer, counsel to the Fosters, explained that this quarry serves the Alsea area for roads, driveways, and forestry uses. The quarry is almost played out as currently delineated by DOGAMI, which requires land use approval before the Fosters can request expansion. The Fosters met all conditions of approval under the ordinance; there are no adverse impacts to adjacent uses; the only issue remaining was water quality. The stream is monitored under a

National Pollution Discharge Elimination System permit with DOGAMI and DEQ. Trask has indicated this quarry operation does not present a concern for fish and wildlife habitat.

Wyse asked about the employee daily checklist for the quarry (see packet).

G. Foster explained that the Fosters' employee monitors the ponds. The stream is seasonal and is monitored daily, with weekly checks and a monthly report to DOGAMI.

The Board declared having no ex parte contacts or conflicts of interest in this matter.

Wyse noted that in the PC minutes, Commissioner Evelyn Lee amended the motion to include that the conditions of approval apply to the property and future property owners, but apparently that is already included.

Counsel confirmed that the conditional use permit goes with the property and lasts only as long as the operation lasts. If the owners sell the quarry and there is a one-year break before more quarry operations, the permit expires.

MOTION: Augerot moved to approve the applicants' appeal of the Planning Commission's decision and modify the conditions of approval as proposed in the attached memorandum. Wyse seconded the motion, which **carried 3-0.**

Malone closed the Public Hearing at 11:54 a.m.

7. Old Business

7.1 In the Matter of Adopting Order #D2023-036: Findings Approving A Farm-Help Dwelling in Land Use Case Number LU-22-023 – Vance Croney, County Counsel

Counsel explained this is the Order returned from the February 21, 2023 land use hearing, the Jordan-Crosby appeal of the Planning Commission's denial of a relative farm-help dwelling. The matter centered on changes in State law regarding clear and objective standards for needed housing properties. The Board concluded that the Benton County Code definition of a commercial farm operation is not defined and is not unambiguous; the Board approved the applicants' request to overturn the denial and approve the application. The findings, conclusion, and Order were initially drafted by the applicants' attorney; staff have edited the Order to more closely align with the Board's decision.

MOTION: Wyse moved to adopt Order #D2023-036 adopting the findings approving a farm-help dwelling in Land Use Case #LU-22-023. Augerot seconded the motion, which **carried 3-0.**

8. Other

8.1 *Addressing the Community Landfill Petition and the Solid Waste Advisory Council (SWAC) Request to Resume Meetings –Vance Croney, County Counsel; Darren Nichols, Community Development

Counsel explained that SWAC has asked several times that the Board re-institute its meetings. The Board has indicated that discussions relating to solid waste should be focused at the BCTT One Table. The Board may also consider a response to an online community petition that would

ask the Board not to make any decisions on a Conditional Use Permit application from Republic Services (RS) until a Solid Waste Management Plan (SWMP) is adopted. The petition has not been filed yet. The request would put the Board in a potential conflict with State law, which requires that land use decisions be made within 150 days. The Board has no legal authority to impose a moratorium on a decision about land use applications from RS. Staff request a Board position statement to address this misunderstanding of Board limitations.

Nichols added that while the County should have had a SWMP decades ago, and is working towards that, there are still legal constraints. If the Board delayed taking action on any land use application, the applicant could after 150 days file with Circuit Court for a writ of mandamus. The Court can compel that action or make the decision for the County, which could negate community input on the topic.

Wyse suggested that the Board read the draft statement by Counsel (exhibit 1) aloud, ask staff to disseminate the statement, and move to approve the statement.

Malone read the statement aloud.

MOTION: Wyse moved to accept the statement as the Board's formal position on the community petition, and direct staff to disseminate it through the County's regular communication channels. Augerot seconded the motion, which **passed 3-0.**

Nichols explained that SWAC has met monthly with its two appointees to the BCTT Work Group (WG), who serve as liaisons between the groups. After SWAC and the liaisons met last week, the SWAC Chair emailed the Board asking to restart regular SWAC meetings once the BCTT report is made public. Because April-May 2023 is a public comment period, staff feel that is not timely and could be distracting. The Board should be the first body to hear and consider next steps from the BCTT process. Staff recommend that the PC, SWAC, and the Disposal Site Advisory Committee (DSAC) continue to suspend normal meeting operations until receiving additional direction from the Board, after the report public comment period.

Wyse agreed with the staff recommendation. Wyse disliked returning to a question that the Board has already answered. After the Board approved the BCTT WG bylaws and scope, WG members questioned what they should work on. The Board again said that discussion should occur at the One Table. The Board made a statement to this effect and held lengthy conversation at a Board Meeting, and Wyse read a statement to the WG. Wyse did not favor changing the Board's original direction, and felt the Board should continue not to have SWAC meet.

Augerot concurred that the Board prefers to continue the One Table as the primary venue for now, including time to receive all public feedback and absorb the information. SWAC needs to wait and the PC needs to meet on other matters until the entire BCTT process is closed.

Malone stated the Board has been consistent in the One Table approach. This fits in with the County's effort to reorganize committees, re-examining bylaws, scope, and membership to ensure committees meet current needs. Malone favored delay in restarting the role of SWAC, DSAC, and the PC in the solid waste conversation. Malone requested that when the BCTT report is released, staff provide a potential timeline for restarting SWAC/DSAC meetings. Malone suggested summer 2023, but did not specify a deadline.

Nichols to return with that information.

Wyse directed the public to previous Board motions on this subject.

Responding to a question from Counsel, the Board confirmed that past direction still stands.

{Exhibit 1: SWAC Memorandum and Draft Petition Statement}

8.2 Discussion of Pending Legislation Senate Bill (SB) 847-5 & House Bill (HB) 2001-B Regarding Housing and Homelessness – Xanthippe Augerot, Commissioner

Augerot explained that staff have been tracking two Oregon bills regarding housing. HB 2001-B is now on the Senate side; the Board signed the House letter of support, and Augerot recommended that the Board also sign the Senate letter of support.

MOTION: Augerot moved that the Board endorse House Bill 2001-B as it stands in the Senate. Wyse seconded the motion, which **carried 3-0.**

Augerot explained that Senate Bill 847-5 relates to temporary exemptions for aspects of land use planning relating to the homelessness crisis. One element provides liability coverage for cities or counties sponsoring safe resting places or camping areas for unhoused people as a transitional measure. Augerot asked if the Board wanted to make a formal endorsement, submit testimony, or sign a letter. Roseburg City Councilor Ellen Porter is a primary supporter and wants to keep the bill alive for a hearing/work session on March 27, 2023. The bill will either be modified or a compromise brokered by the State to provide interim insurance coverage. While there has not been a strong demand for this from cities in Benton County, the League of Oregon Cities fully supports the bill. Sanctioned camping will reduce pressure on waterways, streams, and parks.

Malone asked if the Board was considering whether to support the bill as is, or generally support the concept.

Augerot replied that Porter's request is to support the bill as is. This liability exemption is currently an opt-in for counties and cities. The bill's geography refers to the remainder of the state/Rural Oregon Continuum of Care, which covers Benton County now, but would not if Benton forms its own Continuum of Care. Augerot hoped to amend that aspect, but supported the overall concept.

Arena added that Porter's intent is to elevate the issue of liability insurance to the State for a solution. Porter intends to keep the bill opt-in, whether through a waiver of liability insurance or umbrella coverage provided by the State.

Malone supported the concept but preferred to reserve judgment on the final bill.

Augerot noted the bill will die if it does not proceed to a hearing and work session. If the bill is altered in the work session, the Board can change its stance.

MOTION: Augerot moved to support Senate Bill 847-5 moving forward to its work session, and to support the concept of providing liability coverage for assisting the homelessness safe rest and sanctioned camping areas. Wyse seconded the motion, which **passed, 3-0.**

Crager to draft a letter to that effect.

Chair Malone recessed the meeting at 10:49 a.m. and reconvened at 11:00 a.m. with the Public Hearings.

Wyse asked who else will attend the ABC House fundraising dinner on April 6, 2023. The Board has purchased a table.

Augerot will attend. Other guests to be determined.

9. Adjournment

Chair Malone adjourned the meeting at 12:21 p.m.

DocuSigned by:
Pat Malone
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Pat Malone, Chair

DocuSigned by:
Erika Milo
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Erika Milo, Recorder

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