



Board of Commissioners

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MEETING MINUTES

BENTON COUNTY BOARD OF COMMISSIONERS MEETING

Goal-setting Work Session

Tuesday, June 13, 2023 – 9:00 AM

Present: Pat Malone, Chair; Xanthippe Augerot, Vice Chair; Nancy Wyse, Commissioner; Judge Matthew Donohue; John Haroldson, District Attorney; Jef Van Arsdall, Benton County Sheriff; Vance M. Croney, County Counsel; Suzanne Hoffman, Interim County Administrator

Staff: Darren Nichols, Daniel Redick, Inga Williams, Community Development; Cory Grogan, JonnaVe Stokes; Public Information/Communications; Tracy Martineau, Human Resources; Carla Jones, Community Health Centers; Debbie Sessions, Jenn Ambuehl, Financial Services; Damien Sands, Behavioral Health; Maura Kwiatkowski, Board of Commissioners; Sean McGuire, Sustainability

Guests: Sam Imperati, Amelia Webb; ICMResolutions; Kate Johnson, Adult Drug Treatment Court; Nick Pileggi; Benton County Talks Trash Workgroup Members Catherine Biscoe, John Deuel, Liz Irish, Ed Pitera, Louisa Shelby, Ginger Rough Richardson, and Jeff Condit; Bret Davis, Marge Popp; Mark Henkels; Clark Willes

1. Opening

1.1 Call to Order

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

1.2 Introductions

Introductions were made.

1.3 Announcements

There were no announcements.

2. Review and Approve Agenda

The agenda was revised to reflect that County Counsel Vance Croney would present Item 5.2, and it was noted that additional presenters would participate in Item 4.1. The agenda was then approved.

3. Meeting Minutes Approval

3.1 In the Matter of Approval of the May 9, 2023 Goal-setting Meeting Minutes

MOTION: Wyse moved to approve the May 9, 2023 Goal-setting Meeting Minutes. Augerot seconded the motion, **which carried 3-0.**

4. Discussion Topics

4.1 180 minutes – Presentation and Discussion of the Benton County Talks

Trash (BCTT) Workgroup Final Report* – *Sam Imperati, ICMResolutions; BCTT Workgroup Members*

BCTT Workgroup Facilitator **Sam Imperati** explained the order of the presentation and thanked the members present for the hundreds of hours invested in the process. Imperati asked the BCTT subcommittee members to introduce themselves and identify the subcommittee(s) on which they served: **Catherine Biscoe**, Past Land Use Application Conditions Subcommittee; **John Deuel**, Sustainable Materials Management Plan Subcommittee; **Liz Irish**, Planning Committee Appointee and Legal Issues and Land Use Review Subcommittee; **Ed Pitera**, Past Land Use Application Conditions Subcommittee; **Louisa Shelby**, Community Education Subcommittee; **Ginger Rough Richardson**, Republic Services, Landfill Size, Capacity, and Longevity Subcommittee and Community Education Subcommittee; **Jeff Condit**, Republic Services' Local Counsel, Legal Issues and Land Use Review Subcommittee, and Past Land Use Application Conditions Subcommittee.

Imperati reminded the Board the process was designed to be a bridge between past events and next steps. The county initially contracted with Imperati to complete a situational assessment and to prepare an assessment report. The workgroup process was designed to focus on common understandings; to move from where we have been to the present.

Imperati believed that following the presentation, the Commissioners, and the county as whole, would have a much richer understanding of the dynamics of the issues and a point from which to make decisions going forward on a Sustainable Materials Management Plan (SMMP) and the Conditional Use Permit (CUP) application process. The BCTT Workgroup was not formed to be a decision-making body or to opine on any future expansion application or to create an SMMP. The scope of its work, as defined in its Charter, was to a) develop common understandings to form the basis of the work; b) clarify existing review criteria and information requirements for the land use review process for any proposed landfill expansion; c) scope the necessary tasks to begin a long-term SMMP process; d) provide recommendations on additional topics raised in the July

12, 2022 Assessment Report prepared by ICMResolutions; and e) consider creating a public-facing document and community education campaign on these topics.

The clear message heard during the assessment and process was the county was in desperate need of having a traditional, long-term SMMP. Tradition is meant to distinguish between the informal approach the county has had in various pieces but never traditional in terms of an integrated plan. The focus was on the long-term SMMP approach.

Imperati indicated a great deal of work was done toward beginning a Request for Proposals (RFP) process; the first draft of an RFP was included in the meeting packet. The recommendations included a proposal to have BCTT Workgroup members continue to participate in refinement of the SMMP scope of work and the RFP. A subcommittee also proposed several recommendations on how best to involve the community. Additional topics included 1) reopening the existing hauling agreement in summer 2024; 2) clarification of the roles, responsibilities, and protocols of the Solid Waste Advisory Committee (SWAC) and Disposal Site Advisory Committee (DSAC); 3) developing specific recommended review criteria for evaluation of the applications (the majority of which discusses the laws and what can/cannot be done; there is a great deal of discretion available to the Planning Commission and the Board of Commissioners); 4) discussion over whether these bodies should use the same evaluation criteria or variations; and 5) a timeline for any review of and potential changes to the Benton County Code.

Regarding the overall results, the focus was on producing relevant, verifiable facts rather than speculations or opinions framed as facts. The report includes 124 findings and 94 recommendations ranging from broad to detailed.

Imperati indicated the five sections to be discussed in the current meeting were: a) the SMMP; b) landfill size, capacity and longevity; c) legal issues and land use review; d) past land use application conditions; and e) community education and public outreach.

Sustainable Materials Management Plan (SMMP). An SMMP should help transition and refocus from linear, end-of-life waste management to more holistic, systemic, circular approaches for all materials. Positive impacts of an SMMP include: 1) efficiencies of full lifecycle/cradle-to-cradle sustainable material management; cost savings and other benefits from waste reduction; 3) creation of opportunities for efficient circular economies both locally and regionally; 4) better inclusion of equity and shared prosperity in waste considerations; and 5) recognizing and encouraging innovation in the materials stream. Imperati reviewed the voting results for the various key findings and key recommendations regarding the SMMP.

Deuel provided comments on behalf of the SMMP Subcommittee. The process provided a unique perspective. Deuel's hope during the process was to help provide the county with a long-term perspective into the dynamics of how materials have been managed and a dissection of critical points of conflict among a good number of county citizens. Deuel believed the seven-month process accomplished this but noted there is much more work to be done. The SMMP should nest or be linked to Oregon's 2020 Framework for Action,

which led to the Break Free from Plastic Pollution Act of 2021 launching in 2025. Inter-county collaboration is critical to address regional sources of materials entering Benton County. There is a need to engage broad representation in the next phase of the process; voices of traditionally under-represented groups, including rural stakeholders, must be involved; this is perhaps most important. Most Oregon residents want to preserve the state's natural resources. Although there has been a rise in automated processes, there has also been a stagnation of waste diversion confusion and frustration among the consuming public. The SMMP recommendation is an opportunity for the county to seize on changes and improve dramatically the diversion and prevention of materials waste in Benton County and beyond. Pitera stressed the need for county residents to be aligned, as well as the need to step back to see the overall impact of hosting the landfill.

Landfill Size/Capacity/Longevity. Imperati provided an overview of this section. These topics were discussed in depth when the most recent CUP was filed. He recalled asking various stakeholders about when the landfill would close based on a capacity issue and the wide range of numbers received in response. It was quite broad, and the level and magnitude of disagreement was palpable. A major goal of the Landfill Size/Capacity/Longevity Subcommittee was to obtain verifiable data and to explore it thoroughly and objectively to arrive at the best answers the subcommittee could regarding these topics. The county now has in one place a set of common understandings surrounding these issues. There were 42 findings and 12 recommendations. The current landfill activities are north of Coffin Butte Road and consist of a total of 194 acres, including the quarry. There are multiple variables regarding the future. The current end of life estimate is projected at between 2037 and 2039. Republic has indicated it will be unable to place waste in Cell 5 by mid-2025 and would need to place waste in the quarry, which is Cell 6. Excavation of the quarry is scheduled to begin this year, with completion in 2025.

Richardson indicated the work of this subcommittee was a difficult effort. Some subcommittee members would likely have a different perspective on the finite end date of the landfill. Through perseverance and members' willingness to be open to Republic's data, they were able to achieve consensus on many issues. That consensus speaks to the efforts of the subcommittee members to work through the issues. Site life estimates are variable and have decreased over the years. Republic's current projections are based on data recognized by the EPA and industry data, but it does not account for the unforeseen, such as the 2020 wildfires. Some factors cannot be fully estimated, including population growth and waste generation. When the initial CUP was filed, the site life estimate was 4.5 to 5 years. Republic anticipates there is up to 2 years of site life remaining in Cell 5. The quarry still contains rock, which would need to be excavated, and the waste could not just be left on the ground. An environmentally safe and regulatory-approved landfill would need to be constructed in the quarry, and the timeframe for this is relatively tight.

Redick acknowledged the collaborative effort of this subcommittee and recognized Paul Nietfeld, who invested significant effort to help analyze information available and developed the overview of this subsection of the report. The subcommittee collected

significant information and spent a great deal of time considering the future of the landfill, site life estimates, and how that affects overall quality of life. The landfill business operations were also discussed. Pitera noted the section was extremely well done; it broke the problem down into small pieces to make connections and achieve consensus. The section is sound, supportable, and understandable.

Legal Issues and Land Use Review. Imperati presented the overview of this section. The charge was to create a summary of the county's current rights and obligations with Republic Services, and Republic Services' rights and obligations to the county. This came under the topics of the Hauling franchise, landfill, CUP, and conditions of land use approvals. The previous CUP process had disagreement on the review criteria and facts. The subcommittee's goal was to provide as much clarity as possible on these issues with the hope that in any future CUP, the focus would be on policy and factual matters, so the scope and breadth of discretion in interpretation of terms could be agreed upon so as not to distract on the merits. There is also a section on the rights and obligations of other entities surrounding the landfill initiatives. Which governmental entity regulates what, such as noise and light? Where might there be multijurisdictional issues? Should any CUP have ODEQ approval first? The sequence and timing were explored. Clarifying the land use review process for any proposed landfill expansion received a great deal of focus. The various interest groups' concerns over whether the criteria helped or hurt their position and to what extent did the degree of flexibility given to the Board or Planning Commission help or hurt them going forward? There was concern the Board and Planning Commission had very little discretion. The subcommittee findings underscored quite clearly the breadth of the discretion of the Board and Planning Commission; there is much more clarity now as to what the rules of the process are going forward. There were 35 findings and 13 recommendations, and the majority of the subcommittee voted in favor of the findings and recommendations. The county does have latitude to interpret the provisions of its own code, but decisions and conditions must be rooted in applicable criteria in the development code. Also, it can only address the current application and not look back to alter previous land use decisions or conditions. The high level of specific recommendations involved topics such as the role of SWAC in future land use CUP review processes; what additional information could the deciding official request from Republic Services or others before it deems an application complete. Major themes in the assessment were insufficient information, lack of timely notice to the public, gaps in the record, lack of resources, and time and resources to meaningfully participate. The BCTT report discusses a preapplication conference, community meetings, and opportunities for people to communicate more transparently and candidly ahead of the ex parte window. There are recommendations that when criteria are placed on a CUP, 1) there is a process for public input in the reopening of the collection franchise; 2) the system of compliance monitoring and enforcement is evaluated; 3) the necessity for review and compliance for the proposed site plan and reclamation plan; and 4) to ensure land use findings are clear; that conditions of approval include all elements intended to be binding and are clear about what is necessary to comply with the conditions.

Subcommittee Member Irish read the following statement:

I'm incredibly grateful for the time spent on this massive task because it was a massive task. This was an honorable and very good first step and understanding. There's been a lot of misinformation about our group and our efforts, so I wanted to take the time to applaud everyone that took personal time to see it through to the end. Where we the county sits on the topic of past and present regarding conditional use permits. It was excellent to see so many people coming together to collaborate on a tough issue. I made friends and gained even more respect for the county staff that stood beside us without complaint the entire time. Staff was amazing, kind, and considerate, even in the face of negative public comments. They came to work every day and did their job properly, and I think it's super important for that to be publicly said. As for me, I'm a better and more knowledgeable Planning Commissioner because of BCTT. Working with the main group gave me insight on how confusing it can be for everyone to navigate policy and procedure from past and present. It also made me acutely aware of the folklore and fiction many of us have been working with especially in regard to something as complicated as a CUP, zoning, planning, and code. Thanks to the Legal Subcommittee, I was able to sit with County Counsel, Republic Services' Counsel, and an independent land use attorney who are patient and easy to work with. They answered every question as we worked together to simplify language, and we did our best to simplify that language. It was not easy at times. And I hope that if there is any part of the Legal Subcommittee's work that isn't more clear, oftentimes the system and the rules are set the way they are. The answers can be incredibly clear at times, but sometimes we just don't like the answers that we get. That does not make that not the fact standing. So that was the thing. I pulled away with that sometimes as a group; we just didn't like what we heard. But it didn't mean that that wasn't the answer, and we worked together to get to a better place where we can work through this. So, I enjoyed it. And I had a great time, guys, although it was very long.

Subcommittee Member Condit echoed Irish's comments and noted how thoughtfully and productively the subcommittee worked through the issues. Condit indicated there is a statutory framework, it was developed very clearly, and it should be judged in the context of the facts of any CUP application that may be filed. Although the Board does have a great deal of discretion in interpreting the county regulations, that discretion does have some guardrails, which are explained in the report. Condit noted it was a very interesting process and that he enjoyed the people he worked with during the process.

County Counsel Croney characterized the subcommittee as an outstanding group that worked together well on difficult issues. Croney also noted a number of elements within the recommendations have been criticized for too much technicality or legalese. Croney pointed out the subcommittee worked hard to ground its findings and recommendations in either code language, statutory language, or case law. The members did not want to interject their own words or interpretations into the recommendations or findings to avoid creating bias.

Workgroup member Pitera offered comments from his perspective as a resident. The first is odors from the landfill, which Pitera indicated everyone utilizing Highway 99 has experienced. The charts showing the various responsibilities for landfill oversight indicate a rigid and siloed structure. It is not always clear where jurisdiction lies; it could almost be said that no one has jurisdiction.

However, the history and records of Coffin Butte Landfill indicate there was an odor problem in the early 1980's. A SWAC meeting was held with the landfill operator's representative in attendance. Solutions discussed included covering more of the landfill at night (ODEQ jurisdiction), and the hours of landfill operation could be restricted (Benton County jurisdiction). Pitera's point was that there is jurisdictional overlap regarding landfill operations, and those jurisdictions need to work together (break down the silos).

Pitera also expressed a belief that there is a perception that ODEQ is restricted within a narrow band of authority. ODEQ establishes a regulatory minimum of what is required. However, that regulatory minimum does not preclude exceeding the minimum with the goodwill of the county and the goodwill of the hauler and operator of the landfill. What will the landfill look like 15 years from now? A bald cap might be the minimum. Regulations may require 1.5 feet of dirt and some grass. Would the ODEQ minimum allow slopes up to a certain angle, or could the agency approve something flatter? There are options; but if the jurisdictions are operating in silos, opportunities will be missed. Could the site look like a park and be used as a park? In summary, there are two areas for opportunities – odors and end use – where the parties can work together for better outcomes.

Past Land Use Application Conditions. Imperati noted that the theme of the assessment ICM conducted was allegations of noncompliance with previous CUPs; things that should have been done were not done. The volume of documents associated with past CUP processes was astonishing. Staff compiled all historical documents in one place for the first time ever, and subcommittee member Pitera traveled to Eugene to review and have transferred documents from a warehouse there. Historical documents from 1974 through 2015 were reviewed. The 2021 CUP application was not reviewed given where it left off. The work needed the historical context to understand how we got to today. A summary language evaluation of each historical file was prepared. New laws and a Supreme Court case have also affected these issues.

Subcommittee member Briscoe thanked the Commissioners for the time and financial investment, as well as staff resources, for this extensive and comprehensive process. A great deal was learned.

The subcommittee conducted a review of nearly 50 years of landfill records and land use history, including past land use applications and other records. The primary focus of the subcommittee was the land use history; in particular the compliance with decades of land use actions. The work included an extensive review of past land use applications, conditions of approval, and other agreements, including the ODEQ permitting that was available in the record.

The subcommittee report attempted to balance historical documents of land use applications, conditions of approval, decades of land use, landfill operations, legal interpretations, and, of importance, the record of public expectations with a compliance

focus regarding land use decisions and subsequent activities. The subcommittee made efforts to present findings and recommendations that were based in fact within the historical land use record. There are certain issues that remain inconclusive but that would benefit from further exploration, to determine compliance.

The final report of this subcommittee was not met with consensus in every case; there were differing viewpoints regarding compliance in the absence of records or the need for further review.

Important issues for moving ahead include exploring accounting gaps; managing the conditions of approval; potential adverse environmental impacts from landfill activities; public expectations, which were not always upheld; the importance of balancing the landfill as a necessary resource for county residents; as an economic consideration; and as an environmentally relevant operation that affects the public's health, wellbeing, and safety.

Pitera discussed the 1983 document, including that everyone's opinions were documented, and those are in the county record to provide various perspectives. The difficulty with the 1983 decision is that it was used to say there is a Cell 6, and that cell can be filled. The landfill has a life of perhaps another 15 years, but it does not feel right to rely on the 1983 document. However, it is a foundational document. It has implications on whether a CUP is needed going forward. Pitera expressed concern that if a CUP is determined to not be needed, the regular citizen is cut out of the process of decision making regarding the future land use.

Williams expressed appreciation to fellow subcommittee members for their many hours of hard work. The review of historical documents emphasizes the need for documents to "say what you intended to say." The language should be clear to professionals, attorneys, and the public. There are many opportunities for improvement in the composition of staff reports and the presentation of information.

Condit agreed with Williams regarding the lack of clarity in historical documents; it is a lesson in the importance of crafting conditions to achieve desired outcomes. The older decisions are frustrating because they are not clear, documents are missing, and it is not known why certain decisions were changed because changes were not explained.

Community Education and Public Outreach. Imperati explained the goal of this subcommittee was to examine the interface between the county and the community. Are the standard communication processes sufficient for transparency, and is there appropriate time for public review? The subcommittee concluded that 1) community education and extended outreach are critical, 2) the county must specifically target underserved groups, and 3) communications must be succinct and understandable.

Subcommittee member Shelby indicated the subcommittee became a bridge between some of the other subcommittees and noted that human health and ecosystems are most important to her as a nurse. Shelby was pleased with the subcommittee's arrival at a

common understanding, hopes to see that occur in the community, and expressed appreciation that the county is listening.

Richardson acknowledged Marge Popp and Mark Henkels. The subcommittee's work involved creating a comprehensive history of Coffin Butte Landfill, and Popp and Henkels were two of the primary authors. At the open house, Richardson indicated hearing more positive feedback on that report section than almost anything else contained in the report.

Imperati noted that a high school representative served on this subcommittee and was a very valuable member.

Deuel indicated it was a unique opportunity for him as staff faculty at OSU. Deuel has mentored graduate level students, and they want to work on sustainable materials management issues. OSU is and can be a resource for this process going forward. Deuel informed he would be retiring from OSU on June 18 but wants to continue mentorship activities, including his desire to service as the liaison for OSU's Sustainability Double Degree program to Benton County.

Richardson thanked Imperati for facilitating the process, the Board for the investment of resources; and fellow workgroup members. Richardson felt lucky to have engaged and passionate citizens. The workgroup took on very complicated issues; and while it would be unrealistic to expect unanimous agreement, the group achieved consensus on the majority of items. This process will allow Valley Landfills/Republic Services to submit a stronger CUP. Republic's position is that a CUP and use of the quarry are essential to responsible and safe waste disposal. Republic values its partnership with Benton County beyond the life of the Coffin Butte Landfill. Republic has both open and closed landfill projects throughout the United States; the organization is in the process of doing many projects at closed sites – solar facilities, public parks, etc. When the Coffin Butte Landfill closes, the company will be here in the future.

Augerot looked forward to completing a thorough review of the report and its recommendations and expressed appreciation for the immense effort invested in the process. Augerot also expressed concern about the amount of information that had been lost amongst different Commissioner and staff transitions, which makes for a challenging decision-making environment. Augerot is looking forward to next steps, especially development of the SMMP and more transparency and community engagement in the process.

Wyse indicated the report exceeded her expectations, and it reflects the commitment and engagement of the community. The common foundation that is the report was sorely needed. Wyse also expressed appreciation for Croney's comments and the approach regarding the use of legal language.

Malone thanked the workgroup for its incredible efforts in this process. In reference to longevity, he asked what incentives there were to reduce the level of materials entering the landfill. Specifically, from the other partners using the landfill. Malone acknowledged the positive, real difference made with all partners around the table. Malone also wanted

it to be very clear this is a Benton County-sponsored project. The county wanted to own it, and the county wanted to be able to appoint a third party to guide the effort.

Augerot indicated agreement with the need for opportunities to minimize the waste stream and incentivize all contributors of waste to the Coffin Butte Landfill to contribute less, to generate less. We need to do that everywhere, not just here, but Augerot believes the community has fantastic leverage now in Western Oregon make a big difference, not just for Benton County, but throughout Western Oregon.

Regarding the SMMP, Augerot asked whether there would be any third-party analyses of water quality and methane levels. Redick responded that the plan to include a cost/benefit analysis across the materials' lifespan would be part of the next phase and depends on what field analysis authority the county has at the landfill. Augerot expressed a desire for a better understanding of material recovery facilities. Benton County needs to be a good steward of the landfill, as well as land and water quality. Considerable thought needs to be given to the long-term vision of the landfill, and conditions and code should be written to achieve that vision.

Wyse expressed a desire for intentionality in identifying where the county has missed the mark in the past so mistakes are not repeated. Many ongoing conversations need to be had in the future, and she welcomes community input in prioritizing the workgroup's recommendations. Important questions include, what is feasible, who are the partners, and what code changes are needed? One theme Wyse expressed seeing in many areas of the report was broken trust. There is a perception the county does not enforce conditions and is reactionary.

Malone noted there were discussions several years ago with Republic Services regarding a construction debris facility or transfer station near Coffin Butte, since 15 to 20 percent of the materials going into the landfill are construction-related waste. Malone would like to keep construction waste out of the landfill and asked about reuse/recycle and methane capture options.

MOTION: Augerot moved to accept the Final Report of the Benton County Talks Trash Workgroup as presented. Wyse seconded the motion, **which carried 3-0.**

MOTION: Augerot moved to direct staff to develop a draft Request for Proposals for a Sustainable Materials Management Plan , an advisory group membership proposal to accompany it, and that the draft Request for Proposals be brought back to the Board for further consideration before it is issued. Wyse seconded the motion, **which carried 3-0.**

Wyse indicated her list of things to include in the RFP would include: 1) the 2040 Initiative importance of being a lens for viewing the SMMP and how we will strategize with other

counties. The Board cannot regulate whether other counties implement SMMPs. 2) Regarding stakeholders, the county needs to acknowledge those listed on Pages 591 and 592 of the report. 3) The findings of the workgroup should be specifically called out in the RFP. 4) An educational webinar for proposed consultants with a preproposal question/answer period. Also, the county needs to partner with a consultant that has similar core values and vision, specifically regarding the importance of community engagement in the process. It will be critical for the Board to take leadership on this issue.

Augerot expressed hesitation to contract out the community engagement process. If the county does retain a firm for that process, it will be important to hire locally, retaining a firm with a solid understanding of the community.

Augerot also cited ODEQ as a vital partner in this process, as are OSU, Republic Services, other jurisdictions, and community members, as well as others. The cities must be involved because cities are the major waste generators.

Imperati expressed belief there is a BCTT Workgroup expectation that the community and workgroup members would be invited to help create the next draft of the RFP.

Wyse asked about how cities fit into the county's SMMP. Augerot pointed out that the cities' waste goes into the landfill; these jurisdictions need to participate in the process to recognize the severity of the issue and contemplate how jurisdictions might reduce their waste streams. Wyse indicated participation by the City of Corvallis is crucial.

Augerot noted there is a recommendation to direct staff to schedule a meeting with the Planning Commission consistent with the request from the Planning Commission Chair. The tentative date for that meeting is June 27.

MOTION: Augerot moved to hold a joint meeting with the Planning Commission. Wyse seconded the motion, **which carried 3-0.**

Augerot asked about the roles of SWAC and DSAC (statutory committee; hosting county committee). The same people serve on both committees; perhaps the Board needs to decouple that. Augerot indicated not being ready to make a motion or provide direction on this issue at the current meeting.

Wyse believed it might be helpful to have a joint Board/Planning Commission/SWAC/DSAC meeting. There are some questions in the report about the criteria for SWAC or DSAC relative to review of a CUP before the Planning Commission. The report also mentioned that at some point in more recent history, the committees were left out of a role they were supposed to have on a previous CUP.

Malone recapped that the direction to staff is to review the existing committee structure and return to the Board with recommendations about whether the current SWAC/DSAC structure is the appropriate one to move forward. Augerot stressed that advisory committees need a clear mission and mandate; otherwise, it is wasted time, and members

do not feel valued. It may be more appropriate that any proposed version of SWAC be timebound and focused on next steps in this process rather than something broader.

Wyse inquired about discussion, perhaps at a future meeting, regarding public input and the survey and indicated a need to have the ability for people to provide public comment or testimony to the Board regarding the process. The Board did receive several comments on the survey, and a common theme was that the county could improve the process for future surveys. Augerot had not yet had an opportunity to engage with that area but believes we should focus energy on moving forward. If the Board has agreed it will hold a public comment session, it should be more targeted toward the SMMP and moving forward. Wyse agreed; however, she believed there is an opportunity for good feedback on the process. Malone agreed it was a good idea to have this on a future agenda.

Malone asked whether it is possible to reopen the existing franchise agreement. Augerot believed it is worth a discussion. The currently agreement incentivizes expansion and might have looked different if all of the information was available at that time. She agreed it is worthy of discussion, but not in the current meeting. Wyse agreed there is an opportunity for more discussion and education; that does not mean, however, we would get everything we want. Croney indicated it is possible if both parties agree. Wyse asked about a limited opening. Croney indicated the parties could agree to anything or nothing. Nichols noted much has changed since the 2020 agreement, and he believes Republic Services has been a good partner. An agreement to partner could look different; it could be more; it could be better.

Wyse expressed a desire to hear from the public. Malone suggested clarifying what the Board wants regarding the existing franchise agreement: Augerot indicated it would be worth discussing a reopening of the franchise agreement; the agreement may have looked different if not for COVID. Wyse expressed an openness to discussing the agreement and pointed out that Republic Services can also make requests regarding the agreement.

Augerot would like to conduct a public comment process on the SMMP. Wyse agreed; she believes such would be an opportunity for good listening and valuable feedback. Augerot would like to see a public comment process that is positioned as moving forward rather than dwelling on the past. Wyse noted that SWAC and DSAC have been asked not to meet, and some community members are unhappy about that. Malone asked Croney to bring forward, at a near future meeting, the topics the county would want to address if the 2020 franchise agreement were reopened. Croney noted reopening of the agreement is entirely up to the Board; however, he is reluctant for such to occur. Malone indicated that when the Board has the discussion at a future meeting, Croney can provide input regarding feasibility. Malone agreed with Wyse that public comments on this topic would be added to a near future Board meeting.

Malone thanked the BCTT Workgroup for its extraordinary efforts.

Nichols asked the Board to respond to the OSU offer letter. The Board indicated a desire to accept the offer and requested that Nichols prepare an acceptance letter.

4.2 Adult Drug Treatment Court Presentation and Next Steps – Drug Treatment Court Judge Matthew Donohue, District Attorney John Haroldson, Interim County Administrator Suzanne Hoffman, Behavioral Health Services Director Damien Sands

Judge Donohue opened the discussion regarding the Adult Drug Treatment Court (ADTC). District Attorney (DA) Haroldson noted he had worked with drug courts for over 20 years in Benton County, and the ADTC is in its 23rd year. The ADTC's long-term success is a result of aligning with best practices to serve as a National Association of Drug Court Professionals model for the rest of the country.

There was a period when the approach went from independent treatment agency to Benton County providing the treatment services, which was not a success. A successful return was made to an independent agency providing the services. The second time with Benton County providing services has again not been a success, and this is well detailed in the May 30, 2023 memorandum from Sands and Hoffman. The bandwidth is not available to provide services at a level that aligns with the research and evidence-based best practices.

Haroldson addressed one of the fundamental components of the ADTC that differs from the Health Department's substance use disorder (SUD) response. The ADTC recognizes there are four groups comprised of a risk element and a need element, which are 1) high risk/high need, 2) low risk/high need, 3) high risk/low need, and 4) low risk/low need. High risk/high need is more than simply responding to the treatment need from a therapeutic standpoint; it also includes an accountability component, which is essential to producing the best outcomes. This is where fidelity to the treatment court model aligns with evidence-based best practices that have been researched and shown to have the best outcomes. It is a therapeutic response to the need that exists. If that need happens to be for inpatient treatment, that is not a sanction; it is not a punishment. Haroldson did concur with the memorandum that the bandwidth is not available.

ADTC utilizes a multidisciplinary team (DA, court, public defender, case management, law enforcement, and others). It is a collaborative program and includes intensive monitoring, which is different than treatment programs. Haroldson noted the Best Practice Standards list, which is grossly simplified, is tied to research and best practices, reducing recidivism, and reducing costs. Donohue informed there are two decades of research on ADTC practices efficacy.

Haroldson noted the program's target population is high risk/high need. Risk means someone who is likely to be unsuccessful in the traditional model of supervision and treatment, which is the realm of therapeutic treatment that brings in accountability, with a goal of meaningful, sustainable behavior modification. It is not a retribution model.

Donohue indicated ADTC is designed to address high risk/high need individuals with persistent criminal behavior who will not voluntarily participate in other programs. Drug treatment court is a criminal justice program designed to reduce recidivism. Individuals who have had persistent contact with the criminal justice system are married with treatment resources and the court system to provide treatment, WRAP (Wellness Recovery Action Plan) resources, peer support, general life skills, and housing and education, which are necessary to break the cycle of recidivism. This is how the drug treatment court model is substantially different from a SUD treatment model.

Donohue discussed the cost-effective outcomes of the ADTC: an average of \$2.21 in direct benefits to the criminal justice system for every \$1 invested; and when high risk offenders are targeted, this increases to \$3.36 for every \$1 invested. For every \$1 spent on addiction treatment programs, there is a \$4 to \$7 reduction in the cost of drug-related crimes. Overall, treatment courts produce benefits of \$6,208 per participant, returning up to \$27 for every \$1 invested.

Donohue reviewed the key components of the drug treatment court model: 1) Multidisciplinary team (Justice System and Treatment), 2) Collaboration and information sharing, 3) Swift entry into treatment and other services, 4) Intensive monitoring, 5) Use of behavior modification (Incentives and Sanctions), 6) Staff Training, 7) Self-evaluation and feedback for performance improvement, and 8) Sustainability.

The majority of those in the drug treatment court are there for property crimes with substance abuse as a factor. Once people are in the program, there is an almost 100% graduation rate with housing, employment, and GED achievement. The pandemic however, stopped up the docket; finding people is a challenge, and attorney/client control is difficult. Since May, there have been no attorneys available to appoint as public defenders; this will hopefully ease up under the new contract that begins July 1. In addition, the lack of jail space has resulted in increased failures to appear.

Donohue discussed the ADTC best practice compliance issues, including the county being unable to uphold Memorandum of Understanding (MOU) commitments due to funding limitations; treatment provider nonattendance at ADTC staffing; non-forensic drug testing; removal of core criminal thinking treatment curriculum; co-gendered, mixed risk level treatment groups; a reduction in evidence-based programming, and a lack of effective utilization of the CHANCE peer support contract. The peer support program has had some amazing results.

Donohue indicated that outcomes improve when participants receive behavioral or cognitive-behavioral interventions; interventions are carefully documented in treatment manuals; providers are trained to deliver the intervention consistent with the manual; fidelity to the treatment model is maintained through continual clinical oversight; treatment lasts at least 9 to 12 months; on average participants receive 6 to 10 hours of counseling weekly in the initial phase and 200 hours counseling over the course of treatment.

The Benton County ADTC, along with the Corvallis Municipal Court, are the post-conviction sequential intercept model for diverting people out of the criminal justice system. The average cost to house someone in the Oregon prison system is \$50,000 annually. Two thirds of those who end up in prison have SUD treatment needs, and two thirds of them do not receive treatment. Ninety percent of those will return to the community.

Donohue presented the estimated costs of the program; a biannual budget estimate of \$1.781 million. Grants and insurance reimbursements are available, but the county is being asked to fill the funding gap to maintain the program in fidelity with best practices. The ADTC program was very successful for a number of years utilizing grants; but that funding is no longer available, and moving the program to Benton County Health was not successful. A third-party service provider is needed.

The recommendation includes three parts: 1) move the ADTC out of the Health Department budget because it is a criminal justice program, 2) secure a commitment to work with the treatment court program to find a third-party treatment provider, and 3) work aggressively to identify and secure drug treatment court program grants for housing, peer support, and other support services. The county would be the grant applicant, and ADTC staff would perform the grant application work. The Criminal Justice Council (CJC) grant is the one sustainability grant the ADTC has. Donohue stressed the need to move quickly. He is very concerned about the population of the program; it may be doing more long-term harm than good relative to criminal risk. At this point, it does not appear the ADTC will receive a CJC grant this year. In order to receive a CJC grant to keep the program moving forward, a third-party provider needs to be onboard by July 19 and begin accepting referrals. ADTC is not currently accepting referrals, and a third-party provider has not yet been identified. The CJC does have a second level implementation grant for ongoing programs, but everything would need to be in order by September 19. Donohue indicated a response from the Board is needed by July 21 to determine whether the program can move forward. If there is no provider or funding, the program would need to transition to closure.

Wyse asked Donohue to confirm the court was requesting funding from the county and assistance with grants. Donohue confirmed that any grant and/or contract for a third-party provider would need to be with the county. The court cannot contract directly for therapeutic services due to the language of applicable Oregon law. Other counties have similar circumstances. Donohue noted the county has not historically paid for the program. There was a six- to seven-year period of various grants, including federal; these grants assisted with the start-up of the program but not its sustainability.

Augerot cited the low census and the significant expense for few people in the program. She did not believe the county could sustain this now, especially with a waiting list of people for mental health counseling and substance abuse treatment, especially with the rapid timeframe.

Regarding the low census, Donohue noted that one of the problems has been the referral rate. Referrals come from defense attorneys and the DA's Office, and there have been some concerns about the program. Another issue is attorney availability, although he does see more attorneys becoming available at the Office of the Public Defender. If the program comes into compliance with best practices, Donohue believes referrals will increase. The program deals with the most high-risk individuals and is the only program that provides an opportunity to help these individuals, increases public safety, and decrease the overall cost to criminal justice. There is no other similar program in the county; and if it shuts down, there is no guarantee it can be restarted.

Malone expressed appreciation for a great deal of information in a limited amount of time. Donohue will be out for the next three weeks but would be available to come back to Board in the near future; he is also available to speak individually with any of the Commissioners.

Haroldson stressed the importance of recognizing efforts to preserve the ADTC and acknowledged the efforts to date by the Health Department and the great intentions of all stakeholders. However, despite the best intentions, sometimes the resources simply are not there. The census issue is interesting; the snapshot seems to support the argument that the investment is too expensive. This argument resonates, but the challenge is that while there may be a reduction in the number of possession-of-controlled-substance crimes, there is an increase in drug-fueled crimes. Haroldson believed the census would return; but sometimes the resources simply are not available. Haroldson has long advocated for the state to fund drug treatment courts across Oregon as part of the criminal justice system. Drug treatment courts are not an island unto themselves; they are an evolution of the criminal justice system, which provides an opportunity for the judge to make the most highly informed decision at each critical decision point.

Augerot said it was clear that the court not being able to apply for grants or pay for contracts is an obstacle. This structure does not fit well into the county's structure and is not an ideal fit with the county's behavioral health mandate from the state. Augerot expressed frustration with the structural restraints affecting the ADTC.

Sands indicated the county's SUD program is now capable of providing uninterrupted services for as long as needed, guaranteeing continuity for the clients being served. While the SUD model does not fully align with the current standards of ADTC, it is a model that offers the supports individuals need for recovery.

Given the current circumstances and funding constraints, the best course of action for Benton County appears to be to maintain the services within the SUD program with the model defined by Benton County Behavioral Health (BCBH). Staff can be effectively allocated within the current model, and funds could be better utilized to address the current struggles of the broader community rather than solely focusing on criminal justice-involved individuals; especially considering the changes brought about by

Measure 110 and the measure's intent to shift resources from the criminal justice system to treatment services.

Hoffman noted that while it might appear this request came late, it actually did not. Hoffman indicated Donohue had made the offer ever since she has been engaged with the program. Hoffman expressed appreciation for the Herculean efforts of Donohue, the Trial Court Administrator, and the ADTC Program Coordinator to keep the program in a successful place. There may be differing views on some of the issues discussed, but Hoffman suggested everyone could agree on the need for more treatment resources of all kinds, both criminal justice-involved and non-criminal justice-involved, in our community and across the state.

Hoffman pointed to the second issue: the county's Health Department is not well suited to continue to participate in the ADTC program given all its other community responsibilities, as well as some of the other challenges to which Donohue alluded. Hence, the May 30, 2023 memorandum included in the meeting packet. The county is not in compliance with the current MOU out of necessity. Sands reorganized the SUD program; and although it is offering services to the participants of the ADTC, it is not following that model or meeting the standards set by the judge. Therefore, the request contained in the memorandum is that the Board formally end the county's participation in the ADTC program. Should the Board decide to grant all or part of the judge's support request, the county would be ready to fulfill its role.

Augerot reiterated that there were two elements to the Board's decision making. One is to formally end the county's behavioral health participation in the ADTC and the other is whether to contribute to keep the existing ADTC program operating through the next biennium.

MOTION: Augerot motioned to accept the staff recommendation to formally end Benton County Behavioral Health participation in the Adult Drug Treatment Court program and to focus on meeting the growing demand for services in the community. Wyse seconded the motion, **which carried 3-0.**

Haroldson asked when the motion would be effective. Sands advised there would be no hard stop, and there is a commitment to continue treatment for those currently in the program. Augerot asked whether an addendum to the existing MOU would be necessary to reflect the Board's action. Westfall thanked the Board for consideration of the court's request and for consideration given to the motion of withdrawing from the MOU, it is an administrative decision. The program has been functioning without conformance to the MOU for a considerable time, and the MOU includes a caveat that parties need only participate with service to the level they can do so in business practices. It does not appear an addendum is necessary at the present time.

Hoffman pointed out BCBH is not withdrawing from the program because of strictly financial reasons. It is because we have, as Sands described in the memorandum, a broader responsibility in the community; and the county cannot do both at this time. Donohue has always made it very clear he would be happy at any point to come before the Board to either inform or educate about the ADTC program, but certainly in the interest of ensuring financial resources are considered if they are available.

Wyse noted it would have been desirable to have had a funding request during the recent budget development process. Wyse expressed belief the ADTC is a good resource for the community, but the Board must balance that service with making the most of county resources. Wyse expressed feeling conflicted that people will not be engaged in another manner.

Malone pointed out that the previous week, the Board was discussing the temporary closure of the Alsea Health Center due to a low number of users, and cost did not justify continuing the program in its current form (similar dollar amounts as what is being discussed for the ADTC) and tasking staff with carrying the grant responsibility of the program. Therefore, he was inclined to not fund the ADTC.

Haroldson indicated that in the event the Commissioners elect to defer a decision on ADTC funding, he would invite the Commissioners to consider revisiting the topic in six months.

Criminal defense attorney Nick Pileggi expressed support for ADTC and the statements made by Haroldson and Donohue. Even if ADTC is only able to help a dozen people in a year, the program trains them to turn their lives around; and the benefit they can provide to our community versus the detriment they can do is worth the investment. If these individuals do not turn their lives around, the detriment is extreme.

Augerot asked whether a third-party service provider is available to provide services. She also had questions related to cost and available staff resources to identify, apply for, and manage grants. While these questions cannot be answered in the current meeting, they do need to be answered in order to provide continuity or see the program lapse for a period of time. Lapsing the program means a loss of momentum. Wyse shared Augerot's concern about lapsing the program and losing the small amount of current momentum.

Malone expressed concern over the lack of a clear funding commitment and indicated six months is close to the beginning of 2024. He suggested it might be appropriate to revisit the topic shortly after the beginning of the year.

Westfall expressed concern over waiting six months for a decision. If the Board does not make a funding decision in the next several months, we would likely be looking at having to discontinue the current ADTC program. Because, as Donahue explained, we are not operating to the fidelity, which was one of the motivating factors to come before the Board. We know we are not providing the treatment anticipated and contemplated by following the fidelity to the model. Delaying a decision for six months would have the effect of discontinuing the program.

Sands noted that if he were a nonprofit leader considering responding to a third-party RFP for services for the population base, it would need to be clear there was substantial and sustainable financial support to offset the costs. The current model places the financial burden on the external entity (the county or service provider). Attempting to secure grants every year is a risky proposition; the county would need to guarantee funding for a longer period of time. Sands also spoke to use of the term harm in the context of the ADTC discussion. He wanted to reframe that to indicate that not meeting the fidelity requirements of one model does not necessarily infer that harm or success is not being met in another one. Individuals participating in one of the SUDs will be therapeutically healthier at the end of it. Harm is more from the juridical standpoint than the therapeutic standpoint.

Haroldson pointed out that “harm” in the context of therapeutic response in the ADTC is real and is not a trite term that should be easily dismissed. However, the real issue is whether there is available bandwidth. Both ADTC and BCBH have the same objective; a response that is beneficial to the participants and will not harm them.

Westfall cited Milestones as an organization that had been providing treatment services in general conformance with ADTC standards before BCBH became involved. Westfall was unsure whether Milestones or any others could provide services because the court cannot issue an RFP.

Clark Willes, a defense attorney who works in ADTC, addressed the Board and indicated he had been involved in the ADTC for the last 10 or more years. Willes indicated a great deal more information is soon to become available. Over three court dates in July – the 17, 21, and one other – all of the individuals who had been postponed will be before the court, at which time it will be known how many individuals will be available for ADTC. In addition, the Office of Public Defense Services budget will be determined before July 1. There is an opportunity to put the ADTC decision on hold since more information is only one month away.

Given that more and better information will likely be available in mid-July, Augerot suggested a Board agenda item for that timeframe. It would also be helpful to know if a treatment provider would be available. Hoffman agreed and indicated that would also provide an opportunity to determine whether staff capacity is available and to define required resources.

4.3 Strategic Communications Update – Cory Grogan, Public Information Officer; JonnaVe Stokes, Communications Coordinator

Stokes presented analytics associated with the county’s social media engagement with the community. Augerot was not surprised to see high numbers on Nextdoor for Philomath and North Albany and noted both these geographical areas voted against the Justice System Improvement Program (JSIP) bond measure.

Stokes asked the Board for guidance on the type of information they would like to receive and what they believe the community would like to receive. Malone believes the refreshed county website will be more engaging for the public and expressed appreciation for the Communications/Public Information team exploring new strategies to engage the public.

Stokes noted that individuals will sometimes engage in only one platform. For example, some interact only through mailers while others interact only through social media.

Grogan pointed out that the analytics data helps define the team's strategy and tactics and ensures the county is spending wisely on advertising and other communications.

Grogan presented the strategic communications update, which included Podcast 3 on wildfire preparation, the June 14 Crisis Center Groundbreaking, awareness and outreach activities, county publications, and other ongoing activities.

Malone expressed appreciation for the strategic communications updates; Wyse and Augerot concurred.

4.4 Board of Commissioners/Community Health Centers Draft Co-Applicant Agreement – *Carla Jones, Community Health Centers; Tracy Martineau, Human Resources; Rick Crager, Financial Services*

Agenda Item 4.4 was deferred to the July 11, 2023 Goal-setting Work Session.

4.5 County Administrator Recruitment Update – *Tracy Martineau, Human Resources*

Martineau indicated internal interviews with four candidates were scheduled for June 14.

4.6 County Administrator Updates – *Suzanne Hoffman, Interim County Administrator*

Hoffman reported continued progress on the three main priorities for her interim service: 1) Health & Human Services Director position description, 2) completion of performance evaluations due; and 3) preparation for transition to the new county administrator.

4.7 Commissioner Updates – *Benton County Commissioners*

Wyse

Wyse read community member Jim Fairchild's email comments into the record:

"I certainly understand wanting to look at full cycle materials management. When doing so, one loses any distinction between "producers" and "consumers," which is an admirable goal. For in each stage of a cyclical approach, manufacturers, shippers, and even final stage/end-of-life managers become both consumers of product, and producers of whatever might become of those materials, in whichever form they take.

Is Benton County ready to take on the obligation of "producing" materials from the solid waste it now collects? So far, the county has no idea of what it can produce from its current solid waste collection system that would provide any sustainable or useable product, at either the individual county or the regional scale. Without that, no sustainable materials management plan would be complete.

I have great doubt that you'll find a consultant capable of sorting that out any time soon. But that must be within the scope of this--or any--sustainable material management plan.

In the meantime, and in the absence of a Benton County solid waste management plan for the "consumer" side of receiving solid waste from the region, the county is ill-suited to permit any additional collection of solid waste, or the expansion of the already permitted solid waste footprint on its landscape."

Augerot

Busy with Association of Oregon Counties (AOC) activities and JSIP elements follow-up. She has been asked by a series of community members to meet with them; she has had some meetings and will be doing more. Augerot indicated she was looking forward to more systematic work in this area and is considering doing some focus groups. It will be important to be very strategic about assembling focus groups.

Regarding AOC, discussions are occurring regarding membership dues. The large counties pay as much as 20 times more than smaller counties. The formula used for rate increases is disproportionately high for larger counties. Midsize counties are not as affected as the larger and smaller counties. No decision has been made on this issue; there will be another conversation in July. One solution could be a flat, across-the-board increase; while over the next few years, AOC would work on the formula for more equity. Augerot also discussed the status of bargaining for AOC staff, the largest source of cost increases for the organization. The total compensation increase last year was 11%, which resulted in a need to cut staff positions. There is turnover in AOC's legislative staff, but other areas of the organization have more staff longevity.

Augerot reported being recently appointed to the Criminal Just Commission's Justice Grant Review Committee. There are a great many proposals to review; it will be an interesting and time-consuming process. Augerot will also serve as co-host of the Red Cross June 13 spring social and will attend the upcoming National Association of Counties national conference in Austin.

Malone

Malone was at the Capitol in Salem on June 12 but had heard nothing more about negotiations with Senate Republicans involved in a walkout. House of Representatives work is in good shape. One of the walkout workarounds would be a "Christmas Tree" bill, where many funding measures are included in one package. Such bills usually receive good support because there is something for everyone, such as funding related to water and wildfire issues.

5. Department Reports and Requests

5.1 Order No. D2023-053, Affixing Board of Commissioners' Digital Signature Images to Board-approved Documents – Vance Croney, County Counsel

MOTION: Wyse moved to approve Order No. D2023-053.
Augerot seconded the motion, which carried 3-0.

5.2 Amending Resolution R2023-003 Authorizing a Financing of Real and Personal Property in a Principal Amount Not to Exceed \$36,000,000 and Related Matters
– *Vance M. Croney, County Counsel*

Croney informed on the change to the resolution the Board approved in March 2023, which authorized issuance of bonds for payment for the courthouse and the DA's Offices. The resolution put forward at that time stated that both uses would be new structures – a very limiting restriction on options as the county moves through the planning and preconstruction phases. Staff believes it is prudent for the county to have the flexibility to expand the uses for which the \$36 million can be spent. Croney called the Board's attention to Page 373 of the meeting packet, which showed an edit that would authorize the use of the \$36 million for the construction or rehabilitation of one or more facilities for a county courthouse and/or DA's office. This provides the flexibility to build two structures, build one structure, rehabilitate the existing building, or to make a purchase.

Malone appreciated the flexibility the revised resolution would provide to respond to rapidly changing conditions and believed the change made sense. Wyse noted the Board previously gave a direction and requested that if flexibility became necessary, staff would return to the Board with a specific request. Croney agreed that if there were a definitive circumstance, staff would return to the Board for approval of any change.

Augerot asked if the proposed change would work for Stockhoff; Stockhoff indicated it would be very helpful. Augerot noted construction costs are escalating at a rate of 1.1% per month. At a meeting last week between Augerot, Presiding Judge Williams, the Court Administrator, and Stockhoff, there was discussion of various options for relieving cost pressure, including reconfiguring the footprint of the new courthouse to serve only the court at this time while preserving the option to construct a connected and adjacent DA's office in the future. This would leave the DA in the historic courthouse for the time being and allow funds to be used to rehabilitate the historic courthouse.

Wyse indicated such was not her understanding of the current state. Previously, the Board approved a motion including the DA's Office in the new courthouse. Was the Board being asked to change that decision?

Augerot asked Stockhoff to address the question. Stockhoff reiterated Augerot's comments about meeting with Presiding Judge Williams, the Court Administrator, and the Oregon Justice Department (OJD) representative. With the present design for the court and the Presiding Judge not supporting that design, the OJD representative indicated it would be difficult to recommend the current court design for approval by the Oregon Chief Justice. Chief Justice approval is required for the OJD money to be spent.

Stockhoff noted in the meeting that the County still has the historic courthouse, which could be used for some business functions for either the court or DA.

Augerot asked what would happen if the DA stayed at the historic courthouse. Stockhoff said that scenario would provide latitude in the budget, ensure the court remains within their allotted amount, and relief would be provided relative to the cost escalations. The concern is if certain activities get too far into winter, costs will increase even further. This approach would allow for completion of the courts design, give the DA the space being sought (via a repurposed courthouse), would help maintain the budget, continue to deal with a challenging site, and ensure the courthouse project is delivered in a timely fashion.

Augerot indicated an understanding that this course of action goes against what the Board previously decided and reported speaking with DA Haroldson last week about this topic.

Hoffman reminded that Augerot is the Board liaison for this project.

Wyse asked if staff was requesting the Board at the current meeting to decide not to collocate the DA's Office with the courthouse, or was the Board being asked to only provide spending flexibility to make prudent financial decisions? The memorandum provided to the Board did not address this issue directly.

Croney advised the resolution only increases the flexibility of how the funding could be used. Wyse indicated the staff memorandum circled around the issue; however, she was not aware a decision on a collocation was to be made at the current meeting.

Augerot indicated Stockhoff reached out to ask whether he could change the project scope. Augerot advised Stockhoff such was a Board decision, and the Board would need to decide at the current meeting if Stockhoff was to attempt to keep the work on schedule.

Hoffman pointed out the issue came up very quickly; all actions taken to this point were in good faith. The bond sale is scheduled to occur within days; thus, the sense of urgency around the resolution. In addition, the sooner design change decisions can be made, the better, to incur fewer change costs.

Haroldson noted that whether or not the DA's Office is included in the new footprint has an impact on his office. Haroldson reported speaking with the Trial Court Administrator, Williams, and Augerot; and his takeaway was it is a mathematical equation. As a practical matter, in order to complete the design to the standard required to receive the OJD matching funds, the cost was too great space-wise for the DA's Office to be included in the project. This was a profound disappointment for Haroldson, but he understood the situation.

In a new scenario, the DA's Office would be the sole occupant of the historic courthouse, which is seismically unsafe. Haroldson expressed great concern for staff personal safety and felt obligated, in light of the current meeting, to hold a staff meeting to share this possibility. One employee asked what their life was worth. The sense that DA employees are expendable in the safety dynamic is concerning; it does not feel good for the morale of the office. Safety of the building has been an ongoing issue for DA Office employees. If the DA is not part of the conversation when options are being discussed, this information is not included in the decision-making process.

In addition, the significant time to commute from the historic courthouse to the new courthouse is a consideration; staff time to perform work would be lost to commuting. Other considerations include potential liability for staff travel and grand juries' travel, as well as additional costs for security at both the new and historic courthouses and additional fleet vehicle costs.

Haroldson noted this may be an easier fiscal decision, but it does not address the safety of those left to occupy the existing building. It is one thing to say the DA's Office is out of the footprint, it is another to leave the office at the historic courthouse. These are two different decisions. Perhaps the first decision can be made independently knowing the second decision may suit a need that is a wise fiscal decision, but it does not address in any way the safety of those who are left to occupy the building.

Stockhoff reported a complete seismic retrofit of the historic courthouse would cost \$15-plus million but was unsure of the cost of a partial stabilization. The flexibility of the new approach would provide time to determine the final budget for the new courthouse; and once the final budget is determined, there may be funds remaining for minor improvements at the historic courthouse. Cost is still a problem as is the delay resulting from having to rework the courthouse design to state acceptability, which pushes the project further out and into spring 2024.

Augerot pointed out the other option is pulling out of the project altogether if the Oregon Chief Justice does not sign off on the project design.

Wyse reminded that the Board is leveraging the county to the maximum amount it can safely borrow. She has been asking herself, "What are the priorities?" Wyse's priority has been a new jail over a new courthouse. If the county borrows at this level, should we borrow for the courthouse or borrow in another attempt to go back to the voters for \$30 million to build a jail? Is it too late to exit the eminent domain process? While these are not necessarily the right decisions, they are questions she has considered. Wyse asked when the Board would be requested to decide on not collocating the DA's Office with the new courthouse.

Stockhoff noted the county could continue as originally proposed and incur extra costs to perform redesign work, which impacts the budget. If the county pursues the option without a new DA's Office, the new courthouse could move forward, hopefully still on schedule. The county could also stop the consultant work and pursue only the land use process to attempt to complete it. Stockhoff asked, "Are we staying with the original proposal or advancing the new one?" Stockhoff does not want to spend valuable funds on design and then have to redesign the project.

Wyse indicated she had been prepared to vote yes on the amended resolution but did not have the knowledge to – which meant the public did not have knowledge of – the full explanation for the amended resolution. Wyse stressed that if the Board was being asked to change the resolution, that information should be included in the meeting packet for the Commissioners and the public. Wyse further indicated she was not ready to decide to not collocate the DA's Office with the new courthouse.

Malone expressed similar thoughts. Malone asked Stockhoff how a two-week delay in decision making would affect the project schedule. Stockhoff indicated the need for the court's decision on configuration and adjacency by June 16. Design development needs to be complete within the next five to six weeks so construction drawings can begin in early August; stopping now will create delays. There is a parallel track for the land use process to continue, with a hope to get to a Planning Commission meeting in August. As winter draws closer, costs will continue to increase, and direction sooner rather than later is best. Stockhoff noted the DA had already agreed to reduce some of the office's square footage, which is now within the limits of the site.

Malone asked Stockhoff how certain he was the county does not have the funds to have the DA's Office connected to the new courthouse. Stockhoff indicated with the DA's Office as part of courthouse, it is right at the limit. The last estimate received increased \$200,000, and costs are rising \$150,000 to \$200,000 approximately every two months. By January 2024, costs are expected to be beyond the funds available. Costs are tight for the state as well. Augerot noted the state indicated that if they are not now satisfied with design as the project faces continue cost pressures, they believe the county will continue to chip away at the space, and it will then be less satisfactory than the historic courthouse.

Sessions reported speaking with Chief Financial Officer Crager about this issue; to Wyse's point, we just do not know. Crager believes the county may be able to just make it, but regarding making that decision today, we do not have all the information to confirm that is true. The resolution was to simply provide the flexibility in the bond sale. The bond sale is stipulated as being used for the courthouse. Sessions asked for two weeks to obtain better information to see if the facilities could still be collocated. The seismic issue is a significant part of this; is a partial seismic retrofit an option? The county cannot afford

\$15 million to retrofit the historic courthouse. There is still a great deal of ambiguity to be resolved before a decision is made.

Croney indicated the hard deadline for amending the resolution is June 15. Sessions indicated that if the Board does not amend the resolution, the county will collocate.

Wyse asked Stockhoff if he needed more than just the amended resolution to move forward. Wyse also expressed the need for another conversation, so the public is informed about what the county is considering.

Stockhoff expressed a desire to ensure the Board is comfortable with any decisions made in the current meeting and indicated some activities can continue regardless of whether the Board adopts the amended resolution. Stockhoff would have the team stand down as much as possible regarding design changes or working with the courts to develop a new space plan. Stockhoff asked if the item would then be on the June 27 agenda for a decision.

Hoffman noted there is not currently a meeting scheduled for June 27, other than a potential joint work session with the Planning Commission. Malone asked whether this item could be added to that agenda, and Hoffman indicated yes. Croney concurred, indicating the Board could hold a two-part meeting; one with the Planning Commission and a meeting to consider this issue.

Malone expressed a desire to maintain the original plan and asked if the potential existed for any further cooperation from the state. Augerot indicated no; the state's concerns are strictly with the size of courtrooms and the functionality of the layout from an operational standpoint. If the state does not approve the design, the county would not receive those funds. The county would have the bond money but not be able to do anything with it. It would ultimately be refunded to pay off the bonds.

Wyse asked that if the Board amended the resolution at the current meeting, with the knowledge there would be no collocation of the DA's Office, what would be Stockhoff's next steps? Stockhoff indicated the county would need to go back to the Trial Court Administrator regarding necessary design changes. This would delay the project and push progress well into winter. The state wants one of the courtrooms to be much larger, with the capacity to hold 40 to 60 people in the gallery. Adjacency is another issue, including operations for transactions windows and how staff flows throughout the building. The court also wants the jury room on the first floor; it is currently designed for the second floor.

If the direction is the DA's Office will remain in the historic courthouse, Stockhoff would immediately meet with the courts with prescribed square footage to develop a configuration acceptable to the Presiding Judge and then advance through the process.

Wyse noted it seemed Finance and the project team may have differing opinions; the inability is to reconcile the small chance of having the DA's Office collocated with Stockhoff's need to know the DA's Office is not included.

In response to Malone's question regarding a two-week delay in a decision, Stockhoff indicated the two weeks are very critical. The team is attempting to keep the project on schedule. In the last few months, the process has taken longer, and we are at the point where the court cannot accept the layout provided to them. There will be a large cost escalation in November if that continues, and the square footage was reduced to fit the budget. The \$36 million cost means there is no additional funding. Also, the final land value has not yet been determined, and infrastructure costs are another consideration. The project budget is very tight, and costs are likely to continue to increase. Stockhoff wants to be sure what is being planned does not exceed the budget. Any delays lead to the probability that costs will increase even more.

Augerot reported hearing clearly in the meeting last week that the design is not now satisfactory to the state; and with cost escalations that may result in the footprint shrinking further, she does not believe the state would release the funds. Perhaps the county needs to pull out of the project altogether and reconsider the bond offering and consider the need for the jail. This is a total plan, and there is already a great deal in motion, including with the City of Corvallis on land use. Much is already in motion, so costs are being incurred every day; however, Augerot is not sure the Board is ready to decide. Does the bond sale need to continue?

Sessions indicated the county can withdraw the bond sale, with the next sale opportunity being several months away.

Stockhoff noted the county may only have \$4 or \$5 million available for the historic courthouse. Bond sale proceeds were also to pay for some of what has already been done. When the bond measure failed, many things changed, including some things staff did not anticipate. Last week's meeting with the state had the same result. Stockhoff suggested returning to the Board at the July 5 meeting for a decision.

Haroldson pointed out that 1) by approving the amendment to the resolution, some options are preliminarily created and provide more flexibility; 2) the issue of collocating can be informed by additional information received in the interim; and 3) the issue of collocating is different from where the DA's Office needs to be located. Are there some decisions that will help move efforts forward while still preserving the process of determining where the DA's Office is located?

Croney presented several options to the Board: 1) do not amend the March 2023 resolution; 2) amend the resolution to create flexibility and continue conversations regarding the DA's Office, and 3) request bond counsel and the bank put a hold on the bond sale and take a step back to rethink the direction of JSIP.

Augerot indicated the state had already sold its share of bonds. We stay in the funding line behind Lane and Clackamas Counties. Lane is not currently doing anything, but if they secured financing, Lane could displace Benton County on the funding list.

Augerot reported the state's concerns regarding the current courthouse design: the size of courtrooms; functional configurations; and the belief that with continued rising costs, the square footage would decrease further. Augerot noted that state standards for court facilities are no longer realistic, especially for smaller counties.

Malone believes the county is committed to the north site. That is the future, and he is willing to proceed with the amended resolution. The bond measure defeat does complicate circumstances. The county is likely to have state support for half the cost of the new courthouse. Malone believes the Board should deal with the amended resolution in the current meeting and have Stockhoff return on July 5 to discuss funding issues.

Croney indicated that if the Board approved the amended resolution, the Board should give specific direction to staff about what information the Board would like to have for the July 5 meeting.

Wyse noted if the county continues with eminent domain, there will be unhappy voters.

MOTION: Augerot moved to approve amending Resolution R2023-003 as presented. Wyse seconded the motion, **which carried 3-0.**

Croney asked what specific information the Board wanted for the July 5 meeting. Wyse would like to see an agenda that indicates the Board will be making this decision. Wyse also requested the DA have the opportunity to provide input.

Augerot would like to see the cost implications for any changes to the design.

Sessions will consult with Haroldson regarding time and commuting costs associated with the DA's Office. Sessions noted the county has three years to spend 80 percent of the \$36 million.

Haroldson believed the state has taken a position, and there is no room for more flexibility. He expressed appreciation for the opportunity to be heard on this issue.

Wyse asked that proposed motions be articulated in the agenda checklist for the July 5 meeting agenda.

6. Other

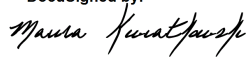
ORS 192.640(1)" . . . notice shall include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects."

7. Adjournment

Chair Malone adjourned the meeting at 4:11 PM.



Pat Malone, Chair

DocuSigned by:

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Maura Kwiatkowski, Recorder