

MINUTES
UMATILLA COUNTY BOARD OF COMMISSIONERS

Board of Commissioners' Meeting of April 17, 2013
9:00 a.m., Room 114, County Courthouse
Pendleton, Oregon

** **

COMMISSIONERS PRESENT: Larry Givens, Chair; Bill Elfering, Vice Chair;
Dennis Doherty, Commissioner

COUNTY COUNSEL: Doug Olsen

MEMBERS & GUESTS PRESENT: Connie Caplinger, Umatilla County Executive Assistant; Leon Noble, Blue Mountain Community Radio; Glen Diehl, Umatilla County Law Enforcement Department Traffic, Criminal Division & Court Security Watch Commander; Mike McHenry, Pendleton Sanitary; Jerry Baker, Candidate for Umatilla County Commissioner; Virginia Blakelock, Blue Mountain Community Radio; Irene Willard, Blue Mountain Community Radio; Gary Betts, Blue Mountain Community Radio; Dan Lonai, Umatilla County Administrative Services Director; Jack Esp, Candidate for Umatilla County Commissioner; Patrick Smith, USDA Wildlife Services District Supervisor; Karen Malcolm, constituent; Cindy Granger, Humbert Refuse; George Murdock, Candidate for Umatilla County Commissioner; Susan McHenry, Chair, Umatilla County Solid Waste Committee; Beverly Reid, Umatilla County Administrative Services staff; Jean Hemphill, Umatilla County Recorder; Tom Fellows, Umatilla County Public Works Director; Gina Miller, Umatilla County Code Enforcement Assistant; Phil Wright, East Oregonian Reporter; Bob Heffner, Umatilla County Budget Officer; Terry Rowan, Umatilla County Sheriff; Mike Jewett, Sanitary Disposal; Bob Patterson, City of Pendleton Public Works Director; Tamra Mabbott, Umatilla County Land Use Planning Director

** ** **** ** ** **** ** ** ** ** **** **

CALL TO ORDER

The meeting was called to order at 9:05 a.m. Chair Givens reminded all present that the meeting was a public forum.

BUSINESS ON AGENDA

Approval of Minutes: The minutes of the previous minutes were in process at the time of this meeting.

Additions to the agenda: None.

Public Input: None.

Consent Agenda:

1. Waive the hiring freeze and authorize the recruitment and hire of on-call treatment counselor
2. Waive the hiring freeze and move Antonio Martinez from an on-call position to fill a current open position
3. Authorization of reimbursement to Comm Givens - \$2900.84
4. Purchase of lift gate

Commissioner Doherty moved to approve the consent agenda as presented. Commissioner Elfering seconded and the motion carried 3-0.

Agenda Items:

1. **Smoke Management Plan Public Hearing:** Commissioner Givens opened the public hearing at 9:08 a.m. Doug Olsen, providing the staff report, explained the need for the plan approval.

Tamra Mabbott added that the committee noted that there was no formal operating plan about a year ago. At that point, the committee developed such a plan, which the Smoke Management Committee adopted as the plan presented to the board. The smoke management program had been in place since about 2000 when it was established in reaction to a threat by the state legislature to restrict field burning for agricultural purposes. Neighboring jurisdictions also have plans in place to manage the air quality related to the burning permissions. Information on day to day conditions were made available on a burn line and on the county website.

Commissioner Givens opened the floor for public comment at 9:13 a.m. Irene Willard asked about the permitting process. Tamra Mabbott explained the process and how the burn day decision was determined. She pointed out that each municipality and the Tribes have their own programs. So the county's program was restricted by the boundaries of the municipalities and the reservation. Receiving no further comment or questions, Commissioner Givens closed the floor at 9:14 a.m. and the board entered into deliberation and decision. **Commissioner Doherty, per the Umatilla County Development Code Chapter 95.10 stating that the smoke management committee shall develop and implement a smoke management operating plan, moved adoption of the Smoke Management Plan as revised and recommended by the Smoke Management Committee on February 22, 2013. Commissioner Elfering seconded. The motion carried 3-0.**

2. **Franchise Waste Ordinance amendment – Franchise Service Areas Public Hearing:** Commissioner Givens opened the public hearing at 9:15 a.m. Doug Olsen reported that the boundaries were not defined by legal description in the original document, which was becoming increasingly necessary. The Solid Waste Committee developed the boundaries with the addition of the legal descriptions and maps after it was discovered.

Commissioner Elfering asked how the maps boundaries were determined. Gina Miller replied that the boundaries were established in 1972, but the legal descriptions were not included. So, the boundary matter was simply a clean-up process requiring the addition of the legal descriptions.

Commissioner Givens opened floor at 9:19 a.m. Mike Jewett of Sanitary Disposal expressed his support of the amendment. Susan McHenry, as a principal with Pendleton Sanitary Service, was also supportive. Cindy Granger of Humbert Refuse was also supportive. No further comment provided, the floor was closed at 9:20 a.m. by Commissioner Givens.

The board entered into deliberation and decision. **Commissioner Elfering, in the matter of amending Solid Waste Management Ordinance, as amended, codified at Chapter 50, Umatilla County Code of Ordinances, for franchise service areas, moved approval of Ordinance Number 2013-04. Commissioner Doherty seconded and the motion carried 3-0.**

3. **Solid Waste Franchise Renewal Public Hearing:** Commissioner Givens opened the public hearing at 9:21 a.m. Gina Miller included in her staff report the process required and its adherence in bringing the renewals before the board for approval.

Susan McHenry reported that the problems with the Pilot Rock franchise's fee payments seemed to be resolved and that they were on track currently with a back-up plan in place.

Doug Olsen explained that the orders to be enacted actually provided an extension of the franchises that were currently in place.

On a question from Commissioner Givens, Gina Miller reiterated that there was a contingency plan in place for the Pilot Rock franchise.

Commissioner Elfering asked for clarification on the franchises as to applying to county residents only. Gina Miller affirmed that the franchises only applied to county residents, that the cities had their own process for those inside city limits.

Susan McHenry noted that the committee also received an application from Quality Compost and Gina Miller added that although they were not a regular company, a franchise was still required.

Commissioner Givens opened the floor to public comment at 9:25 a.m. and receiving none, closed the floor before the minute passed.

Entering into deliberation and decision, Commissioner Doherty noted that there were 7 separate orders.

- a. **Desert Wind Disposal Franchise, Order No BCC2013-038:** Commissioner Doherty, in the matter of granting solid waste disposal franchise to Desert Wind Inc, moved adoption of Order Number BCC2013-038. Commissioner Elfering seconded. The motion carried 3-0.
- b. **Humbert Disposal Franchise, Order No. BCC2013-039:** Commissioner Elfering, in the matter of granting solid waste disposal franchise to Humbert Refuse and Recycling, Inc, moved approval of Order Number BCC2013-039. Commissioner Doherty seconded and the motion carried 3-0.
- c. **Pendleton Sanitary Service Disposal Franchise, Order No. BCC2013-040:** Commissioner Doherty in the matter of granting solid waste disposal franchise to Pendleton Sanitary Service, Inc,

moved adoption of Order Number BCC2013-040. Commissioner Elfering seconded. The motion carried 3-0.

d. **Quality Compost Disposal Franchise, Order No. BCC2013-041**: Commissioner Elfering, in the matter of granting solid waste disposal franchise to Quality Compost, LLC, moved approval of Order Number BCC2013-041. Commissioner Doherty seconded and the motion carried 3-0.

e. **Humbert Collection Franchise, Order No. BCC2013-042**: Commissioner Doherty, in the matter of granting solid waste collection franchise to Humbert Refuse and Recycling, Inc, moved adoption of Order Number BCC2013-042. Commissioner Elfering seconded. The motion carried 3-0.

f. **Pendleton Sanitary Service Collection Franchise, Order No. BCC2013-043**: Commissioner Elfering, in the matter of granting solid waste collection franchise to Pendleton Sanitary Service, Inc, moved to approve Order Number BCC2013-043. Commissioner Doherty seconded and the motion carried 3-0.

g. **Sanitary Disposal Collection Franchise, Order No BCC2013-044**: Commissioner Doherty, in the matter of granting solid waste collection franchise to Sanitary Disposal, Inc, moved adoption of Order Number BCC2013-044. Commissioner Elfering seconded. The motion carried 3-0.

4. **Humbert rate increase Public Hearing**: Commissioner Givens opened the public hearing at 9:30 a.m. with Gina Miller reporting on the process of the rate increase request from receipt by the Solid Waste Committee, posting of the public notice through the comment period deadline on April 8th. No remonstrances were received by that date. The solid waste committee then met and recommended approval of the rate increase.

Commissioner Givens opened the floor for public comment at 9:31 a.m. Jack Esp asked what the rate increase was. Commissioner Elfering responded that the increase was 4% on disposal with a total increase of 14.5%.

Commissioner Givens asked Cindy Humbert to give the background on the rate increase request. Cindy Humbert reported that since the last increase fuel costs for the company increased 6.9%, the medical insurance increased 8.5% despite increasing the deductible to \$1,000. Additionally, there were increases to power costs and the disposal side of the business had a 21% decrease in revenues. The decrease was not a result of losing customers but that the amount of garbage collected decreased. There was also a reduction in construction refuse. The short answer was that there were multiple reasons, with no one significant reason.

Commissioner Givens asked if all franchises were seeing a decrease. Susan McHenry responded that Pendleton Sanitary's recovery rate for 2011 was very consistent with previous years. They were not seeing an increase in the amount disposed or recycled, but that she would leave the volume reports to Mike McHenry and Mike Jewitt. Mike Jewitt reported that Sanitary Disposal was not seeing any decrease in any annual volume, although corporate and residential customers were decreasing. Mike McHenry, however, stated that he would reiterate Cindy Humbert's report. Pendleton Sanitary's tonnage was down significantly with less waste volume and construction waste, having the lowest tonnage rate in the past 18 years.

Leon Noble commented that reduction in purchases that have large amounts of packaging could be one factor. Commissioner Givens closed the floor at 9:36 a.m.

Commissioner Elfering, in the matter of approving increase in collection and disposal rates for Humbert Refuse and Recycling Inc, moved approval of Order Number BCC2013-045. Commissioner Doherty seconded. The motion carried 3-0.

5. **Solid Waste Committee annual report:** Susan McHenry opened by stating that the committee was required to provide the report per statutory requirements and explained that the report was summarized by quarters, based on the committee's schedule. Pilot Rock remained a concern, but seemed to be stabilized. Early in the year the committee applied for the DEQ supplemental environmental project funds (SEP), which were derived from penalty revenues. The committee submitted a proposal to do tire clean up, but the application was declined because the violator in the county chose to perform its own project. That project was supported by the committee. Earlier in the year, the committee began its 5 year review of the Chapter 50 plan, and recommended changes that were approved by the Board of Commissioners in spring 2012. Also, it recommended franchise renewals in Spring 2012. Each spring, the franchises do a clean-up program, although each one was different in its orientation. The committee discussed the franchise boundaries in the summer, which the board acted on in this meeting. And currently there were two vacancies on the committee. The county's recovery rate for 2011 was 29.3 compared to the previous year's 29.4, but that the county was still exceeding the state's target goal set for it. Funding seemed to be the primary barrier for action but was improving. In terms of outreach, the committee was still reaching for its goals. The personal goal was to develop a household hazardous waste program and she would like to thank the board and Gina Miller for their support. Commissioner Givens asked if Union County responded to inquiries on its household hazardous waste program. Susan McHenry stated the committee was still working with Union County to get details and noted that Union County's funding was structured somewhat differently. She added that the committee was also working with the DEQ. Commissioner Doherty commented that he watched the county's program over the past 16 years and, although he was not sure when a version of the program was established, he would like to say that the board needed to publicly acknowledge the work that the committee, the franchisees and the staff had done. Susan McHenry added that the committee would like to remember Mike Monroe and suggested that some recognition be done for the work he did for the county. **Commissioner Elfering moved to accept the annual report from the solid waste Committee. Commissioner Doherty seconded. The motion carried 3-0.**

6. **Supplemental budgets (2) Public Hearing:** Commissioner Givens opened the public hearing on supplemental budgets at 9:53 a.m. The staff report was provided by Budget Officer Bob Heffner as detailed under each item below. Commissioner Givens then opened the floor to public comment at 9:54 a.m. and, receiving none, closed the floor before the minute was out.

a. **Health Department, Budget Order 2013-45:** The health department received notice of reduction in the award for its tobacco grant which resulted in the requirement for a supplemental budget. **Commissioner Elfering, in the matter of a resolution adopting a reduction to appropriations pursuant to ORS 294.471 for the fiscal year ending June 30, 2013, moved approval of Budget Order 2013-45. Commissioner Doherty seconded and the motion carried 3-0.**

b. **District Attorney, Budget Order 2013-46:** The District Attorney's department required the supplemental budget, related to reimbursement of training and travel to and from training expenses on

behalf of and reimbursed by the Guardian Care Center. **Commissioner Doherty, in the matter of a resolution adopting a supplemental budget pursuant to ORS294.471 for the fiscal year ending June 30, 2013, moved adoption of Budget Order 2013-46. Commissioner Elfering seconded. The motion carried 3-0.**

7. **Budget Transfer, Budget Order 2013-47:** Bob Heffner reported that the parks program required an increase in materials and services. The increase was to be effected with a transfer from capital outlay and contingency. In response to a question as to the expenses in the materials and services line, it was reported that the characterization of expenditures for fuel and maintenance of the park equipment and a modification of the business plan resulted in the need for the transfer. **Commissioner Doherty, in the matter of a resolution making a transfer of appropriations pursuant to ORS 294.463 for the fiscal year ending June 30, 2013, moved adoption of Budget Order 2013-47. Commissioner Elfering seconded. The motion carried 3-0.**

8. **Uniforms - Request to post RFP – Sheriff:** Glen Diehl reported that there had been increasing difficulties in obtaining replacements for the current brown shirts and tan slacks, which had long been the department's color scheme. The decreasing availability of the colors in uniforms was driven by larger law enforcement jurisdictions, which had changed their uniform colors. Therefore, the options for obtaining the best possible deal on uniform replacements, as a result, were diminishing. Filling orders had changed from a 3 week to a 3 month average wait because of the reduction of stock.

The sheriff was requesting that the department issue an RFP for the newer style uniforms to take advantage of the supply in terms of availability. Sheriff Rowan reported that he was already seeing some lack of color uniformity in current uniforms.

Commissioner Elfering asked if there was a plan on how to adjust to the changes in colors in the future, as that would happen again. Glen Diehl replied that the changes usually occur slowly and that the department ultimately saves money when there is a greater selection.

Commissioner Doherty asked for information on the standard uniform supply issued per the collective bargaining agreement. Glen Diehl replied that it was 3 pairs of pants, ___ (unintelligible) shirts and 1 coat. He added that the criminal division deputies polled were in favor of changing the color. Sheriff Rowan added that the law enforcement personnel were all one team and having divisions in differing colors as is currently the case made it difficult to establish the team concept.

Commissioner Elfering asked if the uniforms arrived detailed. The sheriff responded that they did arrive detailed. The provider was given the agency patches, etc, although the change in rank was done locally.

Commissioner Elfering asked if there was any potential of economizing by bundling the orders with another nearby county. Glen Diehl replied that Umatilla was one of the last counties to seek a switch. They held out for some time and, in fact, obtained all of Douglas County's old uniforms when they switched.

Commissioner Doherty supported the move as did Commissioner Elfering. **Commissioner Doherty moved that the Board approve the Sheriff's request to go out for proposals for new uniforms. Commissioner Elfering seconded. The motion carried 3-0.**

9. **Seized horses, bill for care – Sheriff:** Sheriff Rowan reported that there were 8 horses seized in the Hermiston area at the time and that Horse Plaza was the nearest facility that had room. The condition of the animals was such that a longer journey was not advisable. One of the horses had to be put down due to severe malnourishment. He complimented the deputy on putting together the case, which resulted in the suspect turning over the remaining horses.

The sheriff had reached the point in consultation with county counsel where the county was able to sell the horses. They were to be taken to the next sale on May 18th to help offset the costs. However, authorization was requested to pay Horse Plaza the monies due prior to the sale.

Commissioner Elfering asked about reimbursement for the care costs by the owner. Doug Olsen explained that if criminal charges were filed there was the likelihood of recovering the costs. **Commissioner Elfering moved that the board approve the request from the Sheriff's office to provide for the care of 7 horses from case 12-1612, using line item 1560-52600. Commissioner Doherty seconded. The motion carried 3-0.**

10. **Juvenile roof repair:** Connie Caplinger reported that a section of the east corner of the roof at the youth services building developed a leak. Palmer Roofing provided a proposal after surveying the roof. The proposal included flashing the roof intersections.

Dan Lonai noted that the quote exceeded the \$10,000 limit that triggered the RFP requirement. At the time that he last spoke with the program manager, funding for the project was questionable.

Connie Caplinger commented that since that discussion she and the program manager identified funding and would like to sole source the work to create expediency. Doug Olsen added that he reviewed the possible exceptions and determined that the county could not sole source the work. Therefore, the program would need to go out for an RFP.

Commissioner Doherty moved that the youth services program issue an RFP for the repair of its roof. Commissioner Elfering seconded. Commissioner Givens asked who would issue the RFP. Dan Lonai stated that he would work with Doug Olsen to issue the RFP. **The motion carried 3-0.**

11. **Blue Mtn Community Radio application:** Commissioner Givens reported that due to the ambiguity of his relationship with the station, he would recuse himself and advised that the board would also need the Land Use Planning director for the discussion.

Commissioner Elfering reviewed the request relative to approve or not a waiver of the fee for application. His principle concern was that if the board waived that fee where would the waiver of fees stop. Virginia Blakelock, with the Blue Mountain Community Radio, stated that the station format was unique to the area. Gary Betts stated that there were examples given for which there was not a \$2500 fee for application, one station in Yakima Valley. He noted that the station might be the last chance for community run programming to remain in Pendleton.

Commissioner Elfering asked for the tower range. Gary Betts replied that broadcast tests indicate that the signal reached slightly past Athena and that the station served Mission, Adams, Helix and occasionally Hermiston although the city of license was Pilot Rock.

Virginia Blakelock added that the station's operations were completely grassroots with funding provided to the organization solely on the promise that they would get on air.

Leon Noble, a volunteer with the organization and de facto station manager, added that there was currently no budget because that would follow the switch to on air operations. The organization was set up to establish underwriting for grants. He understood that the question was that the board was concerned about setting precedent and explained that the only similar stations that fell under the non-profit characterization would be a subsidiary of OPB and the Tribes' station. In his opinion, the reality of the discussion was that BMCR was not comparable to for profit stations. He understood that the request and the project would stop at the Board's decision and suggested that the board could waive the fee to get the station on the air and then possibly defer a fee reimbursement to the county.

Commissioner Elfering asked for the studio location. Leon Noble replied that it was situated in the John Murray building.

Commissioner Doherty asked if there was a governing board for the station. Gary Betts stated that there was a board and that community radio was a specific genre under FCC rules requiring specific responsibilities such as community advisory groups, i.e. the board and that the community provided input as to the station broadcast format. For example, one of the more popular offerings was a children's story hour.

Virginia Blakelock pointed out that due to the location of the community radio station, it was the sole source of information due to storms at times.

Irene Willard, treasurer, commented that the station currently had limited funding in the amount of \$6,000 and that it still needed to obtain the majority of its equipment, except the tower. Gary Betts added that the organization had strong connections such that there would be loaners from other broadcasting companies from their surplus equipment for the most part until such time as the station was able to acquire its own equipment. Virginia Blakelock stated that the work was and would continue to be all volunteer based, some supplied by the local ham operators club.

Commissioner Elfering asked about the fundraising prospects for sustainability. Gary Betts stated that the organization conducted a limited survey in the business community, indicating that roughly a third of the businesses polled would like to sponsor programs in a similar process to that used by NPR, another third was non-committal, but that the poll results seemed to indicate sustainability.

Commissioner Elfering asked county counsel how long the fee was effective. Doug Olsen stated that it was a one-time fee.

Virginia Blakelock added that it was much easier for the organization to qualify for and obtain grants when it was already on the air. The organization had developed a one to two year plan to solvency.

Commissioner Doherty noted the referral to the City of Pendleton resolution in the documents attached to the documentation for the agenda item, but noted that there was no copy of the resolution attached to it. Gary Betts confirmed the support from the city.

Commissioner Doherty noted that the radio station must resume broadcasting by June 1st, and asked if the deadline would be achievable if the permit were allowed. Gary Betts noted that the loaner equipment was obtainable within a week. Commissioner Doherty noted that there was an administrative review process necessary after the application was submitted. Tamra Mabbott noted that there was a 21 day notice period required.

Commissioner Doherty asked if donations would be the main source of revenue. Irene Willard answered that grants would be the main source of revenue. Virginia Blakelock added that there would be a base of membership also.

Commissioner Doherty asked the board size. Gary Betts replied that it was set up for a 7 member board with one vacancy currently consisting of a core group of dedicated volunteers. He added that the organization had developed a business plan.

Leon Noble stated that the reality of the organization's determination would make the station happen, but that the request to waive or reduce the fees would assist in ensuring that would happen sooner rather than later. Commissioner Doherty noted that the group reported that it was fundraising and would develop a budget. He and Commissioner Elfering discussed the possibility of reducing the fee and allow later payment.

Commissioner Elfering commented that since the organization's funds were not yet received and its grant revenue while expected was necessary and budgeted, he would be supportive of waiving the fee. Gary Betts commented that he could not find any mention of fees for a tower of the size that the organization was using. Gary Betts also pointed out that there was nothing statutorily specific to application fees. **Commissioner Doherty moved that the board approve the request for the waiver of the fee. Commissioner Elfering seconded. The motion carried 2-0 with Commissioner Givens recused.** Commissioner Givens resumed the chair on completion of the topic.

12. **Request for County Funding to Support Aerial Hunting Activities in Umatilla County:** Patrick Smith, USDA APHIS/Wildlife Services District Supervisor, reported that the commissioners were aware of the type of services and range of those from previous discussions on the topic and re-emphasized the request and importance of the aerial program, especially with the increased presence of wolves. The aerial hunting program, in his report, freed up the ground time dedicated to predator and other wildlife issues although the wolf introduction limited the time dedicated to the program. Patrick Smith took time to acknowledge ODFW and the various foundations that also participated in the management.

Commissioner Doherty noted that the board and Wildlife Services had several discussions about funding for the programs and noted that the aerial funding was not an annual program. Patrick Smith added that he had been with the area for only two years and his records showed that the last request occurred a few years ago. Doug Olsen noted that the last request was submitted in November, 2011.

Commissioner Doherty asked for data on the program cost estimates. Patrick Smith responded that he was not able to provide those, but noted that the program personnel spent about 100 hours on the program, if that would help quantify the cost.

Commissioner Givens asked if the program was being used to tag the wildlife. Patrick Smith replied that it was strictly for aerial hunting of coyotes. Commissioner Givens noted that the program was not including wolves.

Commissioner Givens asked how many counties in addition to Umatilla County were included in the program. Patrick Smith stated that the USDA kept two aircraft, one each in Burns and Baker. The Baker unit covered Union, Wallowa, Morrow and Umatilla Counties, with the majority of time spent on Umatilla County.

Commissioner Givens asked what contributions were provided from the other counties served by the program. Patrick Smith stated that at this time Umatilla County had been the only formal request. Commissioner Givens asked about contributions without request from other counties. Patrick Smith responded that contributions were received from organizations such as livestock producers or private individuals, but none from any other county entity.

Commissioner Givens asked if there were plans for discussion with other counties or consideration of asking other counties using the service relative to contributions. Patrick Smith stated that he understood the county's concern and agreed that there should be some discussion with the other counties served.

Commissioner Elfering asked if the aerial hunting program participated in the mitigation of other things. Patrick Smith replied that coyotes were the only species hunted via aerial hunting and that, as wolves moved into the area, there would be other tools necessary to manage their populations.

Commissioner Elfering asked for the criteria necessary to determine aerial hunting needs. Patrick Smith replied that it has to do with reports on predation and landowner requests for hunt time, for which the landowner paid. The county's contribution covered the ferry time to and from the hunting site.

Commissioner Doherty commented that the county would need to access the contingency funds because the contribution was not budgeted and no contribution was proposed at the time of budget preparation. The budget officer indicated that use of those funds was possible but would cause some heartburn.

Commissioner Elfering asked if any of the previous funds were left. Patrick Smith replied that as of last quarter, \$4,000 was left, but he believed that had been spent as of the day of the meeting. He also felt that there was confusion regarding the Wildlife Services' trapper's position, manned by Ken Mitchell. Commissioner Givens reported on the direction for the livestock producers to participate in the funding for the wildlife specialist, Ken Mitchell.

Commissioner Doherty stated that the concept was that if a rancher requests help, the rancher pays for the hunt and the county provides the funds to get back and forth from La Grande and that the agency did not quantify the number of trips made. Also, that all trips were made in response to constituent requests.

Commissioner Givens emphasized that the county wanted some verification from Patrick Smith's office of some buy in by the other counties in the program. Patrick Smith replied that he understood that requirement. Doug Olsen stated that the county could make the contribution only applicable to a Umatilla County response. Patrick Smith stated that the team would keep up the documentation of the hours spent on each trip. Commissioner Elfering echoed Commissioner Givens' comments as to getting some buy in by other counties.

Patrick Smith stated that the La Grande plane served 7 counties. Commissioner Givens suggested that each county contribute \$2,000 to \$3,000. **Commissioner Elfering moved to approve the request for the contribution of \$10,000. Commissioner Doherty seconded.** Commissioner Givens stated that the caveat was that Patrick Smith was to report back on the buy in from other counties. **The motion carried 3-0.** George Murdock, on behalf of the Umatilla County Cattlemen's Association, thanked the board for its contribution.

13. **Presentation of plaque:** The board presented a plaque expressing the county's appreciation for many years of volunteer service to the county on numerous boards, committees and commissions to Clinton Reeder in recognition of his (alleged) retirement from service, lastly with the planning commission.

14. **Discussion with City of Pendleton – Lee St. Bridge:** Bob Patterson, City Public Works Director, reported that the 8th Street bridge project was awarded funding via a grant to replace a 1909 bridge. The award letter was asking the city to confirm the acceptance required a local match of 10.3%, making the total match for the project about \$783,000. The project would also require an IGA to be in place by November relative to the disposal of the historic structure on the bridge. That would be in addition to the match. There were also right of way issues on the city side of the bridge. He expected the construction to be about \$6,000,000. The city had some funds set aside, but for the commitment of matching funds assistance was requested.

Commissioner Givens maintained that the bridge belonged to the City of Pendleton and asked county counsel to weigh in. Doug Olsen stated that from the current information, the bridge belonged to the city. Bob Patterson stated that it was his understanding that the bridge was co-owned by the county and the city.

Commissioner Doherty asked for the background of Tom Fellow's meeting with ODOT. Tom Fellows reported that he met with ODOT relative to another bridge, in Milton-Freewater, which was currently number 2 on the state's project list. That would be a \$3.5 million job and a 10.2% match would be \$378,000. That bridge's current sufficiency rating was unacceptable. The county was scrambling but did commit to the replacement of that Birch Creek bridge in the 2016-17 cycle. In order to project funding for that match, the county hoped to use bike path funds to support the match requiring that bike elements be included.

Per Tom Fellows, to come up with an additional \$300,000 to \$400,000 for another bridge in the county was not in budget and the department was not likely to be able to handle the additional cost.

Commissioner Doherty asked if the Lee Street bridge was in the same cycle. Bob Patterson affirmed that it was. Commissioner Doherty commented that ODOT runs its bridge grant funding process on 5 year cycles. Bob Patterson stated that the state would provide the funds in advance if the applicant was ready to move forward.

Tom Fellows stated that the funds were set aside for the Birch Creek Bridge, all things remaining the same. He also noted that the Birch Creek Bridge had higher use within the county.

Commissioner Doherty asked about the Tum a Lum bridge status. Tom Fellows answered that the Tum a Lum and Birch Creek bridges were one and the same.

Commissioner Elfering asked if there were load concerns on the Lee Street Bridge. Bob Patterson stated that the current bridge limits caused the ranchers trucks to divert through town on Main Street. Commissioner Givens asked if that diversion would tend to create traffic concerns. Bob Patterson replied that the diversion only covered about two blocks and the city had been applying annually to replace the bridge since 1999 at least.

Commissioner Givens commented that he would like to confirm the status of ownership of the bridge. Tom Fellows added that he might have been able to provide the information, but that he was out of town when he learned of the meeting. Gary Roberts did as much research as possible prior to the meeting and found information from about 1950 relative to reconstruction of the bridge. That was the first record of any county participation on anything related to that bridge. The road records stated that the county's jurisdiction started on the north bank and after consultation with his colleagues learned that no one else recalled that the county participated in maintenance of the bridge.

Commissioner Elfering suggested that the board take the request under advisement until the ownership status could be clarified.

Commissioner Doherty still had some confusion as to the bridge name in the Milton-Freewater area. Tom Fellows explained that historically the bridge on Birch Creek Road was associated with the Tum A Lum School, which the bridge served.

Commissioner Doherty went on to state that the status of the PILT funds were still uncertain but slated to expire on September 30th. Tom Fellows added that the department would be out \$422,000 from its budget for the next fiscal year, and it did not budget for that amount, but that also created concern for the county's bike path funds. Commissioner Doherty had some reservations about the advisability of diverting those to a bridge. Commissioner Givens repeated that he would like to get some specific information on the bridge ownership and would take the request under advisement. The board would review the request on May 1.

15. **FTE reduction – Admin Services position:** Dan Lonai reported that currently an employee has requested a reduction in hours to .8 FTE. The employee was one of the more versatile employees with the administrative services department, having cross trained for the records division, the law library and purchasing. The change would mostly impact records. Coincidentally, the state Association of Clerks recently discussed the use of on-call employees and the intricacies of the clerks' position. The records division would need a qualified person. The savings on the position reclassification to a .8 allowed the hire for 80 days per year for a part time individual. He would propose authorizing the reduction and allowing the hire of an on-call staff member. His intent would be to find someone who would like to spend a little time at an average of 8 hours per week and to also fill in for vacations and election coverage.

Doug Olsen commented that the use of the on call for vacation and election coverage could run into CBA restrictions. Connie Caplinger added that the on call could not work for more than 640 hours.

Commissioner Elfering commented that it seemed that there still would be no loss to the department. Dan Lonai replied that the cost of the .2 FTE would reduce the position costs. Dan Lonai stated that he would like to post until the position was filled to increase the probability of finding a qualified candidate.

Connie Caplinger reported that the request was reviewed by Human Resources for compliance with the CBA and labor regulations. The motion, if the board should approve, would be a two part motion, approving the reduction in time and then establishing a new on-call position as an hourly non-benefitted person in on-call status.

Dan Lonai stated that he mentioned the proposal as an on-call because of the election period need. Connie Caplinger stated that the motion would then state that the position would be a temporary hourly non-benefitted employee not to exceed 19 hours per week. Dan Lonai asked if the employee could work more than 19 hours in any given week but not to exceed 19 hours total per week during any given pay period.

Dan Lonai added that he needed the position because post offices were no longer doing passports. As a result, the department's passport requests increased. Jean Hemphill added that sickness and vacation coverage were a concern. Connie Caplinger replied that because of the unemployment situation in the county, Human Resources would likely get many applications and added that temporary employees are traditionally looking for full time employment.

Dan Lonai commented that he spoke with his counterpart in Harney County who had a similar circumstance where the on-call was carried for 5 years and eventually stepped into a position that opened in their office.

Doug Olsen stated that the county's hiring freeze was adopted formally in January, 2012 and that the motion should also include a waiver of the hiring freeze. Commissioner Givens was comfortable with the proposal as long as it did not run afoul of the CBA.

Commissioner Elfering commented that it seemed that it was simply an act of replacing time for time and adding economy to the county operations. Connie Caplinger stated that the original proposal was run past Roger Bouch and that the county would not do anything that would get it crosswise with the unions. **Commissioner Elfering moved to approve the FTE reduction and the hiring of a .2 FTE assistant. Commissioner Doherty commented that he was abstaining** and Commissioner Givens stated that the department head was to make sure that the approved proposal went through Human Resources. **Commission Givens seconded. The motion carried 2-0 with Commissioner Doherty abstaining.**

16. **Boardman/Hemingway transmission line:** Tamra Mabbott provided a map showing the most recent route. All agencies were asked to review the draft application for completeness and the county previously provided input. There would be yet another opportunity for input, but the draft letter was in nature of a thank you for cooperation.

It also addressed the offsite staging area not addressed in the proposal binders. That staging area was at the intersection of Lamb and Westland, the Flying J property, and it was expected that a construction office as well as heavy equipment would be based there.

The county disagreed that item was part of EFSC's jurisdiction and noted that the applicant was using the "but/for" test to establish EFSC's authority. Tamra Mabbott commented that it seemed to be a locally permitted matter and that no site plan or design plan for the staging area had been submitted. That land use decision was beyond the scope that EFSC would be able to do.

Commissioner Givens asked what the county fee would be if they applied through the county. Tamra Mabbott stated that as a conditional use permit, it would be between \$250 and \$500. Commissioner Givens asked if the EFSC fee was known. Tamra Mabbott replied that was based on hourly fees.

Connie Caplinger commented that the term staging area meant large trailers were being put in that area. Commissioner Givens stated the gist of the letter was that the county was establishing that the staging area would be county jurisdiction, not EFSC.

Commissioner Doherty commented that as a resident, he would not want to see the county delegate the issue based on the public safety standpoint.

Clinton Reeder commented that the county would also want to take care in establishing precedent for the future. Commissioner Elfering agreed that local control would be preferred. Clinton Reeder anticipated that loss of control to EFSC would create a battle to regain the control.

Commissioner Givens summarized the draft letter, stating that the county was not supportive of allowing permitting at EFSC and that the permitting needed to be done at the county level. Doug Olsen stated that staff was asking the board to approve the letter and authorize the chair to sign it on behalf of the board. **Commissioner Elfering moved to approve the letter and authorize the chair to sign. Commissioner Doherty seconded and the motion carried 3-0.**

17. **Approve & Sign Early Learning Hub agreement:** Connie Caplinger reported that the agreement would be an establishment of the prior format. Doug Olsen added that the agreement was intended to collaborate only to participate in the development of the hub. Connie Caplinger pointed out that it did affect the county financially because some of the CCF funds would go through the early learning hubs, but no county funds were involved.

Doug Olsen stated that the agreement included a recitation of the collaborative agreement principles and added that the county would not receive any funding if it did not participate. Commissioner Doherty asked if the county's designee would be a non-county employee because he felt the numerous additional interagency groups were overloading county staff.

Commissioner Givens stated that the effect of the early learning hub was that the state would do away with CCF. Connie Caplinger explained that CCF would be gone as of the close of business on June 30th. However, some other program in the county would need to pick up the work of the program.

Commissioner Givens asked how much funding was involved. Connie Caplinger replied that it was about \$3,000,000 when including revenue from all the program's grant streams and emphasized that the agreement was simply okaying the county to allow for a county seat at the table.

Commissioner Givens suggested the responsibility should be assigned to someone else. Doug Olsen pointed out that parts of the program were already based in youth services. **Commissioner Elfering moved that the board approve and sign the early learning hub agreement as presented. Commissioner Doherty seconded** with discussion and noted that the last sentence made it appear that the document was not intended to be a binding agreement. Doug Olsen explained that allowed the participants to walk away at any time. **The motion carried 3-0.**

18. **Intra-governmental transfer of funds for specific purpose:** Commissioner Doherty reported that the county still retained \$19,000 of the \$25,000 budgeted to EOTEC in its program. The city could not provide a match for the current this year so it would double its payment in the next year. The funds were designed to be applied to administration and were part of a 5 year agreement with the city for the development of the facility. **Commissioner Doherty moved to approve the intergovernmental transfer of \$19,000. Commissioner Elfering seconded and the motion carried 3-0.**

19. **Appeal response on setbacks and WW watershed standards:** Doug Olsen reported that the decision regarding the waiver of argument was reversed and the application of watershed standards was upheld in the Court of Appeal decision related to the county's wind farm development . The county made a legislative decision on LUBA had found that the arguments raised by the appellant were waived. The Court of Appeal reversed this portion of the decision and remanded back to LUBA. Doug Olsen stated that in looking at the court of appeals opinion, the decision on this point was weak and was asking for Board to authorize the county's appeal.

His consultation with the county's attorney for the matter confirmed the weakness of the decision, but that the estimated cost to do so would be about \$10,000 to \$15,000. If the county did not appeal, then there was the possibility that the matter would need to return to square one relative to the 2 mile setback. The deadline was May 6th to have information to the Supreme Court on its decision whether to hear the appeal. Doug Olsen explained that the stay was a separate process.

Commissioner Doherty commented that he supported an appeal because he felt it was supported by other counties which had indicated that they might do an *amicus* brief. He felt the only one way to get any certainty on the continuing questions related to the ordinance was to take that final step.

Commissioner Elfering asked what the result of not filing an appeal would be. Doug Olsen explained that LUBA could then remand the matter back to the county or make its own decision.

Commissioner Doherty felt that he could reasonably expect that the county would return to the table on the original decision and it would be taken all the way through the appeal process again. Commissioner Givens agreed that the appeal should be filed and asked if the county would continue to work through outside counsel.

Doug Olsen recommended that Mike Robinson should be continued as counsel on the cases. Clinton Reeder commented that the matter could be viewed as anti-wind, but it also supported neighbors being treated fairly and equitably. He felt that the two mile setback demonstrated that residents felt less compelled to sign mitigation agreements in lieu of a greater setback. That concept had been proven in other countries and locations. He noted that the cumulative versus individual loss data provided vastly different statistics, i.e. 100% for one property constituting 10% of the land mass within a project radius resulted in minimal loss overall. **Commissioner Doherty moved that the Board authorize an appeal on behalf of the county of the Hatfield/Iberdrola appeal to the Supreme Court. Commissioner Elfering seconded. The motion carried 3-0.**

New Business: None.

Commissioners reports:

Commissioner Elfering: Reported that he planned to make some changes in the Athletic Achievement Award program for the next year.

Commissioner Doherty: Nothing to report for the sake of brevity.

Commissioner Givens: Reported that he attended the South Fork of the Walla Walla River proposed fish hatchery public meeting the previous evening.

Other Discussion: None.

Scheduling of Next Meeting: The next meeting will be held May 1, 2013.

ADJOURNMENT

The meeting was adjourned at 12:18 p.m.

Respectfully submitted,

Laura Headley
Executive Secretary
Umatilla County
Board of Commissioners