



CURRY COUNTY BOARD OF COMMISSIONERS

GENERAL MEETING

Wednesday February 21, 2018 – 10:00 AM
Commissioners' Hearing Room, Courthouse Annex
94235 Moore Street, Gold Beach, Oregon

www.co.curry.or.us

Curry County does not discriminate against individuals with disabilities and all public meetings are held in accessible locations. Auxiliary aids will be provided upon request with 48 hours advance notification. Please call 541.247.3296 if you have questions regarding this notice.

AGENDA

*Items may be taken out of sequence to accommodate staff availability and the public.
For public comment, a completed speaker's slip must be submitted prior to start of the meeting.*

- 1. CALL TO ORDER & PLEDGE OF ALLEGIANCE**
- 2. ADOPTION/AMENDMENT OF THE AGENDA** (5 minutes)
- 3. PUBLIC COMMENTS** (3 minutes per person; 30 minute limit for all public comment)
- 4. CONSENT CALENDAR** (Items in the Consent Calendar may be removed for separate discussion and/or action at the request of any Commissioner) (5 minutes)
 - A. Curry Co 4-H & Extension Service District Budget Officer Appointment.
 - B. Donation of Sick Leave. – Rich Christiansen, Roadmaster
- 5. PRESENTATIONS**

None
- 6. ADMINISTRATIVE ACTIONS/APPOINTMENTS**
 - A. Federal Lands Access Program (FLAP) Grant Endorsement. – Rich Christiansen, Roadmaster (15 minutes)
 - B. Order Authorizing Interfund Loan for Jail Elevator Modernization. – John Huttli, County Counsel (20 minutes)
- 7. PUBLIC HEARING**

None
- 8. OLD BUSINESS/PENDING ACTIONS**
 - A. To Adopt Final Decision Regarding AD-1705 Appeal (10 minutes)
 - B. 2018-2019 Revised Adopted Budget Calendar (5 minutes)
- 9. DISCUSSION/BOARD DIRECTION/DECISION**
- 10. ANNOUNCEMENTS/MEETING SCHEDULE** (10 minutes)

Discussion Regarding BOC Meeting Schedule

 - A. Upcoming 2018-2019 Fiscal Year (FY) Budget Meetings

- B. March 28, 2018 Workshop 10:00AM – Commissioners’ Hearing Room - Continuation of Personnel Policy Manual Overview

11. INTERIM COUNTY ADMINISTRATOR ORAL REPORT (John Hitt, Interim County Administrator) (5 minutes)

- A. Community Development Staff Report for January, 2017
- B. Surveyor’s Staff Report for January, 2018

12. COMMISSIONER UPDATES (15 minutes)

- A. Commissioner Boice
- B. Commissioner Gold
- C. Commissioner Huxley

13. EXECUTIVE SESSION (20 minutes)

- A. 192.660 (2) (a) To consider the employment of a public officer, employee, staff member or individual agent
- B. 192.660 (2) (f) To consider information or records that are exempt by law from public inspection.

14. ADJOURN

CURRY COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM ROUTING SLIP
FORM 10-001.1 Rev. 1-5-2018

PART I – SUBMITTING DEPARTMENT: RETURN TO BOC_OFFICE@CO.CURRY.OR.US

PROPOSED AGENDA ITEM TITLE: Curry Co 4-H & Extension Service District Budget Officer Appointment.

TIMELY FILED Yes No

If No, justification to include with next BOC Meeting

AGENDA DATE^a: 2/21/18 **DEPARTMENT:** **TIME NEEDED:** signatures only
(*Submit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))

MEMO ATTACHED Yes No If no memo, explain: **order for signatures attached**

CONTACT PERSON: Sheryl McDonald **PHONE/EXT:** 541-247-6672 **TODAY'S DATE:** 2/13/18

BRIEF BACKGROUND OR NOTE: (If no memo attached) appointment of budget officer to serve the 4-H and Extension Service District

FILES ATTACHED:

- (1) Order appointing budget officer for 4-H & Extension Service District
- (2)
- (3)

QUESTIONS:

- 1. Would this item be a departure from the Annual Budget if approved? Yes No
(If Yes, brief detail)
- 2. Does this agenda item impact any other County department? Yes No
(If Yes, brief detail)
- 3. Does Agenda Item impact County personnel resources? Yes No
(If Yes, brief detail)

INSTRUCTIONS ONCE SIGNED:

No Additional Activity Required

OR

File with County Clerk

Name:

Send Printed Copy to:

Address:

Email a Digital Copy to:

City/State/Zip:

Other contact OSU Extension for document pick up-Sheryl McDonald

Phone: 541-247-6672

***Note: Most signed documents are filed/recorded with the Clerk per standard process.**

PART III - FINANCE DEPARTMENT REVIEW

EVALUATION CRITERIA 1-4:

- 1. Confirmed Submitting Department's finance-related responses Yes No N/A
Comment:
- 2. Confirmed Submitting Department's personnel-related materials Yes No N/A
Comment:
- 3. If job description, Salary Committee reviewed: Yes No N/A
- 4. If hire order requires a Personnel Action Form (PAF)? Pending N/A No HR

PART IV – COUNTY ADMINISTRATOR REVIEW

APPROVED FOR _____ BOC MEETING Not Approved for BOC Agenda because

LEGAL ASSESSMENT: Does this agenda item have a legal impact? Yes No
(If Yes, brief detail)

ASSIGNED TO:

PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL

COMMISSIONERS' REQUEST TO ADD TO AGENDA:

Commissioner Sue Gold Yes No

Commissioner Thomas Huxley Yes No

Commissioner Court Boice Yes No

BEFORE THE BOARD OF COMMISSIONERS FOR CURRY COUNTY
STATE OF OREGON
ACTING AS THE GOVERNING BODY OF THE
CURRY COUNTY 4-H AND EXTENSION SERVICE DISTRICT

In the Matter of Appointing a Budget
Officer for the Curry County 4-H and
Extension Service District

ORDER NO. _____

WHEREAS, the Curry County 4-H and Extension Service District was formed to provide agricultural educational extension services to the residents of Curry County, and

WHEREAS, the District collects property tax revenues for operational purposes and is subject to Local Budget Law, and

WHEREAS, the District contracts with Oregon State University to provide said services, and

WHEREAS, the County Leader of the Curry County OSU Extension Office is uniquely positioned to oversee the day-to-day operations of the District, including budget oversight and administrative functions, and

WHEREAS, the annual budget and any appropriations are approved solely by the District's Governing Body following the public processes mandated by Local Budget Law,

NOW, THEREFORE, BE IT RESOLVED that the County Leader of the Curry County OSU Extension Office, as assigned by Oregon State University, is appointed to serve in the capacity of District Budget Officer for the Curry County 4-H and Extension Service District until such time as the District's governing body shall revoke or reassign this appointment.

Dated this 21st day of February, 2018

Board of County Commissioners for Curry
County, Oregon, acting as the Governing Body
of the Curry County 4-H and Extension Service District.

Sue Gold, Chair

Thomas Huxley, Vice Chair

Court Boice, Commissioner

CURRY COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM ROUTING SLIP

FORM 10-001.1 Rev. 11-21-2017

PART I – SUBMITTING DEPARTMENT: RETURN TO [BOC OFFICE@CO.CURRY.OR.US](mailto:BOC_OFFICE@CO.CURRY.OR.US)

PROPOSED AGENDA ITEM TITLE: Road Department-Donation of Sick Leave to Department Employee

TIMELY FILED Yes No

If No, justification to include with next BOC Meeting

AGENDA DATE^a: 2/7/2018 **DEPARTMENT:** Roads **TIME NEEDED:** 3 Min.

(*Submit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))

MEMO ATTACHED Yes No If no memo, explain:

CONTACT PERSON: Roadmaster **PHONE/EXT:** 3393 **TODAY’S DATE:** Jan. 11th, 2018

BRIEF BACKGROUND OR NOTE: (If no memo attached)

Discuss the possibility of Previous Roadmaster donating his sick leave balance to one of the road crew staff.

FILES ATTACHED:

- (1)
- (2)
- (3)

QUESTIONS:

1. Would this item be a departure from the Annual Budget if approved? Yes No
(If Yes, brief detail)
2. Does this agenda item impact any other County department? Yes No
(If Yes, brief detail)
3. Does Agenda Item impact County personnel resources? Yes No
(If Yes, brief detail)

INSTRUCTIONS ONCE SIGNED:

No Additional Activity Required

OR

File with County Clerk

Name:

Send Printed Copy to:

Address:

Email a Digital Copy to:

City/State/Zip:

Other

Phone:

*Note: Most signed documents are filed/recorded with the Clerk per standard process.

PART III - FINANCE DEPARTMENT REVIEW

EVALUATION CRITERIA 1-4:

1. Confirmed Submitting Department’s finance-related responses Yes No N/A
Comment:
2. Confirmed Submitting Department’s personnel-related materials Yes No N/A
Comment:
3. If job description, Salary Committee reviewed: Yes No N/A
4. If hire order requires a Personnel Action Form (PAF)? Pending N/A No HR

PART IV – COUNTY ADMINISTRATOR REVIEW

APPROVED FOR _____ BOC MEETING Not Approved for BOC Agenda because

LEGAL ASSESSMENT: Does this agenda item have a legal impact? Yes No
(If Yes, brief detail)

ASSIGNED TO: Choose an item.

PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL

COMMISSIONERS’ REQUEST TO ADD TO AGENDA:

Commissioner Thomas Huxley Yes No

To: Payroll/Personnel

I Doug Robbins would like to donate 240 hours of sick leave to (b) (1) (A) in accordance with the County Personnel Rules and collective bargaining agreements. I confirm that I am donating this time voluntarily and without coercion, compensation, or for any other consideration.


Signature

1/11/2018
Date

TRANSFER OF SICK LEAVE: Employees who have exhausted their sick and vacation leave benefits may obtain sick leave from other County employees (with their written consent) if they required extended time off for qualified FMLA/OFLA Leave. Only employees who have accumulated more than two hundred forty (240) hours sick leave may make sick leave contributions and no employee may contribute more than forty (40) hours sick leave per year to any other employee. No employee can receive more than two hundred forty (240) hours of contributed sick leave in any one calendar year. Once an employee has authorized transfer of sick leave to another employee, that transfer is final.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Order)
Allowing a Former Employee's)
Sick Time to be Given to a) ORDER NO. _____
Qualifying Employee)

WHEREAS, former Road Master Doug Robbins resigned on January 31, 2018 and had approximately 275 hours in sick time remaining; and

WHEREAS, there has been an identified employee who is experiencing a FMLA/OFLA leave-qualified medical condition (Qualifying Employee); and

WHEREAS, this Qualifying Employee has exhausted her accumulated paid sick leave under Article 18 of Curry County Personnel Rules; and

WHEREAS, Qualifying Employee is eligible to receive transferred sick leave under Article 18, section M of the Rules; and

WHEREAS, Mr. Robbins expressed his desire to donate 240 of his remaining unused sick time, of which 40 hours has already been transferred to this Qualifying Employee; and

WHEREAS, Personnel Rule Article 18M Rules limit contribution to 40 hours from any one employee; and

WHEREAS, the Board of Commissioners is being asked to deviate from the strict application of Personnel Rule Article 18 M and allow an Employee to contribute greater than 40 hours to a Qualifying Employee; and

WHEREAS, the County Personnel Rules give the Board the power to deviate from its rules and use discretion in making employment decisions and Article I Section A requires such deviations or changes by written authorization; and

WHEREAS, Interim County Administrator, County Personnel Officer and County Legal Counsel recommend deviation from the Rules to change leave donation in this instance from 40 hours (one week) to the remaining 200 hours (four weeks); and

WHEREAS, this does not replace Article 18 M allowing others to donate directly to the Qualifying Employee, but will be a bank of time for her to draw from, if necessary; and

NOW, THEREFORE, THE BOARD OF CURRY COUNTY COMMISSIONERS HEREBY ORDERS that effective immediately, 200 hours of accumulated sick time from the former Road Master, Doug Robbins, be available for use by the Qualifying Employee as of June 30, 2018.

Dated this 21st day of February, 2018.

CURRY COUNTY BOARD OF COMMISSIONERS

Sue Gold, Chair

Thomas Huxley, Vice Chair

Court Boice, Commissioner

Approved as to Form:

John HuttI, County Counsel

CURRY COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM ROUTING SLIP

FORM 10-001.1 Rev. 1-5-2018

PART I – SUBMITTING DEPARTMENT: RETURN TO [BOC OFFICE@CO.CURRY.OR.US](mailto:BOC_OFFICE@CO.CURRY.OR.US)

PROPOSED AGENDA ITEM TITLE: \$2m FLAP Grant Endorsement

TIMELY FILED Yes No

If No, justification to include with next BOC Meeting

AGENDA DATE^a: 2-21-18 DEPARTMENT: Roads TIME NEEDED: 15 min
(^aSubmit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))

MEMO ATTACHED Yes No FLAP grant for 2'' asphalt overlay of approximately 7 miles of Jerry's Flat Road between HWY 101 and USFS road

CONTACT PERSON: Richard PHONE/EXT: 3393 TODAY'S DATE: 2-13-18

BRIEF BACKGROUND OR NOTE: Commissioner support to sign Federal Lands Access Program (FLAP) grant Joint Endorsement form for proposed \$2m project with \$205k County Road Fund match. Applications due April 6th 2018 and if awarded with construction in 2022-23 fiscal year.

FILES ATTACHED:

- (1) Joint Endorsement Form
(2)
(3)

QUESTIONS:

- 1. Would this item be a departure from the Annual Budget if approved? Yes No
(If Yes, brief detail)
2. Does this agenda item impact any other County department? Yes No
(If Yes, brief detail)
3. Does Agenda Item impact County personnel resources? Yes No
(If Yes, brief detail) Road staff efforts to complete grant application and replace associated storm culverts

INSTRUCTIONS ONCE SIGNED:

No Additional Activity Required

OR

File with County Clerk

Name:

Send Printed Copy to:

Address:

Email a Digital Copy to:

City/State/Zip:

Other

Phone:

*Note: Most signed documents are filed/recorded with the Clerk per standard process.

PART III - FINANCE DEPARTMENT REVIEW

EVALUATION CRITERIA 1-4:

- 1. Confirmed Submitting Department's finance-related responses Yes No N/A
Comment:
2. Confirmed Submitting Department's personnel-related materials Yes No N/A
Comment:
3. If job description, Salary Committee reviewed: Yes No N/A
4. If hire order requires a Personnel Action Form (PAF)? Pending N/A No HR

PART IV – COUNTY ADMINISTRATOR REVIEW

APPROVED FOR _____ BOC MEETING Not Approved for BOC Agenda because

LEGAL ASSESSMENT: Does this agenda item have a legal impact? Yes No
(If Yes, brief detail)

ASSIGNED TO: Choose an item.

PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL

COMMISSIONERS' REQUEST TO ADD TO AGENDA:

2018 Oregon Federal Lands Access Program
JOINT ENDORSEMENT - This project is supported and endorsed by
 (add agency endorsements as needed)

Project Name	
Federal Land Agency (ies)	
Federal Land Unit Manager's Name	
Title	
Electronic Signature	
Date	
Email Address	
Telephone	
Point of Contact	
Title	
Email Address	
Telephone	
State, County, Local, or Tribal Government	
Agency Official's Name	
Title	
Electronic Signature	
Date	
Email Address	
Telephone	
Point of Contact	
Title	
Email Address	
Telephone	

****Signatures (electronic signatures are acceptable) are required for BOTH the Federal Land Management Agency being accessed and the State, County, Local or Tribal Government.*

BEFORE THE BOARD OF COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Order)
Authorizing the Curry County)
Roadmaster to apply for a)
Federal Lands Access Program)
(FLAP) Grant)
ORDER NO. _____

WHEREAS, the Curry County Roadmaster has indicated he would like to apply for a 2018 Oregon Federal Lands Access Program (FLAP) JOINT ENDORSEMENT Grant; and

WHEREAS, the application requires USFS support and signature of the endorsement form ahead of time and contact with the USFS has been made; and

WHEREAS, the preliminary projects proposed to be used with the funds are a paving project and asphalt overlay project; and

WHEREAS, the project proposal is due before April 6, 2018 with a project date of fiscal year 2022-23 with a 10.27% match; and

NOW, THEREFORE, THE BOARD OF CURRY COUNTY COMMISSIONERS HEREBY ORDERS the Curry County Roadmaster to complete the 2018 Oregon Federal Lands Access Program JOINT ENDORSEMENT Form and apply for the FLAP Grant.

DATED, this 21st day of February, 2018.

Board of Curry County Commissioners

Sue Gold, Chair

Thomas Huxley, Vice Chair

Court Boice, Commissioner

Approved as to Form:

John Hutt
Curry County Counsel

CURRY COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM ROUTING SLIP
FORM 10-001.1 Rev. 1-5-2018

PART I – SUBMITTING DEPARTMENT: RETURN TO BOC_OFFICE@CO.CURRY.OR.US

PROPOSED AGENDA ITEM TITLE: Resolution to fund jail elevator modernization.

TIMELY FILED Yes No

If No, justification to include with next BOC Meeting

AGENDA DATE^a: 02-21-2018 **DEPARTMENT:** Building **TIME NEEDED:** 20 min
(*Submit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))

MEMO ATTACHED Yes No

CONTACT PERSON: Louise Kallstrom **PHONE/EXT:** 3232 **TODAY'S DATE:** 2-15-18

BRIEF BACKGROUND OR NOTE: The Board authorized rebuilding of the elevator that transports detainees from the jail to court. There are no funds for this in the Building Department. The Board has options for funding the work. It may appropriate funds from other accounts, or it may allow an inter-fund loan per ORS 368.708 and ORS 294.468 be from the Road Fund for this capital project.

FILES ATTACHED:

- (1) Resolution authorizing funds transfer supplemental budget
- (2) Resolution authorizing road fund loan to be repaid in three years
- (3)

QUESTIONS:

- 1. Would this item be a departure from the Annual Budget if approved? Yes No
(If Yes, brief detail)
- 2. Does this agenda item impact any other County department? Yes No
(If Yes, brief detail)
- 3. Does Agenda Item impact County personnel resources? Yes No
(If Yes, brief detail) Road staff efforts to complete grant application and replace associated storm culverts

INSTRUCTIONS ONCE SIGNED:

No Additional Activity Required

OR

File with County Clerk

Name:

Send Printed Copy to:

Address:

Email a Digital Copy to:

City/State/Zip:

Other

Phone:

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PART III - FINANCE DEPARTMENT REVIEW

EVALUATION CRITERIA 1-4:

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Comment:
- 2. Confirmed Submitting Department's personnel-related materials Yes No N/A
Comment:
- 3. If job description, Salary Committee reviewed: Yes No N/A
- 4. If hire order requires a Personnel Action Form (PAF)? Pending N/A No HR

PART IV – COUNTY ADMINISTRATOR REVIEW

APPROVED FOR _____ BOC MEETING Not Approved for BOC Agenda because

LEGAL ASSESSMENT: Does this agenda item have a legal impact? Yes No

(If Yes, brief detail) Establish funding for jail elevator repairs

ASSIGNED TO:

PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL

COMMISSIONERS' REQUEST TO ADD TO AGENDA:

Commissioner Sue Gold

Yes No

Commissioner Thomas Huxley

Yes No

Commissioner Court Boice

Yes No

IN THE BOARD OF CURRY COUNTY COMMISSIONERS
IN AND FOR THE COUNTY OF CURRY

IN THE MATTER OF A RESOLUTION)
AUTHORIZING FUNDING FOR) **RESOLUTION NO.** _____
JAIL ELEVATOR MODERNIZATION PROJECT)

WHEREAS, on February 14, 2018, the Board of Commissioners authorized a contract with Straight Up Elevator Company to modernize the jail elevator; and

WHEREAS, the jail elevator project was not forecast nor budgeted in this current budget period and requires funding; and

WHEREAS, the General Fund / Road Fund (select one or combination) has sufficient funds to cover the project;

NOW, THEREFORE, IT IS HEREBY RESOLVED that:

Funds to pay for the Jail Elevator Modernization Project shall be allocated as follows

Road Fund shall loan in an amount of \$____ to be fully repaid in three (3) years.

This loan shall be repaid in three (3) years, with interest at the same rate that the Treasurer's Offices receives on standard accounts prior to the close of fiscal.

Transfer from General Fund _____ account to Building Maintenance Capital Fund in an amount of \$_____.

Dated this 21st day of February, 2018.

CURRY COUNTY BOARD OF COMMISSIONERS

Sue Gold, Chair

Thomas Huxley, Vice Chair

Court Boice, Commissioner

Approved as to form:

John Huttli
Curry County Counsel

CURRY COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM ROUTING SLIP
FORM 10-001.1 Rev. 1-5-2018

PART I – SUBMITTING DEPARTMENT: RETURN TO BOC_OFFICE@CO.CURRY.OR.US

PROPOSED AGENDA ITEM TITLE: Board adoption of a Final Order authorizing an Elk River Property Development AD-1705.

TIMELY FILED Yes No

If No, justification to include with next BOC Meeting

AGENDA DATE^a: 2-21-18 **DEPARTMENT:** Legal **TIME NEEDED:** 10 min
(*Submit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))

MEMO ATTACHED Yes No

CONTACT PERSON: John Huttfl **PHONE/EXT:** 3291

TODAY'S DATE: 2-14-18

BRIEF BACKGROUND OR NOTE: On February 14, 2018 the Board directed the preparation of a Final Order as found on the attached for Board consideration and action to authorize application AD-1705. Application for the analysis of alternatives routes for a pipeline and ancillary facilities to deliver recycled wastewater located for irrigation of a golf course on or over Assessor map 32-15-29C, lot numbers: 103, 104, 105, 106, 107, 108, 118, 120 and 121 and extend to the property commonly known as the Knapp Ranch. (Sections 19, 29 & 30 of Township 32 S., Range 15 W., W.M. Tax lot 4400, and Section 29c of Township 32 S., Range 15 W., W.M. Tax lot 500)

FILES ATTACHED:

- (1) Final Order
- (2)
- (3)

QUESTIONS:

- 1. Would this item be a departure from the Annual Budget if approved? Yes No
(If Yes, brief detail)
- 2. Does this agenda item impact any other County department? Yes No
(If Yes, brief detail)
- 3. Does Agenda Item impact County personnel resources? Yes No
(If Yes, brief detail) Road staff efforts to complete grant application and replace associated storm culverts

INSTRUCTIONS ONCE SIGNED:

No Additional Activity Required

OR

File with County Clerk

Name:

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City/State/Zip:

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PART III - FINANCE DEPARTMENT REVIEW

EVALUATION CRITERIA 1-4:

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Comment:
- 2. Confirmed Submitting Department's personnel-related materials Yes No N/A
Comment:
- 3. If job description, Salary Committee reviewed: Yes No N/A
- 4. If hire order requires a Personnel Action Form (PAF)? Pending N/A No HR

PART IV – COUNTY ADMINISTRATOR REVIEW

APPROVED FOR _____ BOC MEETING Not Approved for BOC Agenda because

LEGAL ASSESSMENT: Does this agenda item have a legal impact?

Yes No

(If Yes, brief detail) Final Order as Required by Statute

ASSIGNED TO:

PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL

COMMISSIONERS' REQUEST TO ADD TO AGENDA:

Commissioner Sue Gold Yes No

Commissioner Thomas Huxley Yes No

Commissioner Court Boice Yes No

**BEFORE THE BOARD OF COMMISSIONERS
CURRY COUNTY**

In the matter of Board of Commissioners file)
A-1701 regarding an appeal of AD-1705 for)
a decision on the Elk River Property)
Development's application for the analysis of)
alternatives routes for a pipeline and ancillary)
facilities to deliver recycled wastewater)
located for irrigation of a golf course on or)
over Assessor map 32-15-29C, lot numbers:)
103, 104, 105, 106, 107, 108, 118, 120 and)
121 and extend to the property commonly)
known as the Knapp Ranch; filed by Nick)
Klingensmith on behalf of Elk River)
Property Development LLC.)

ORDER _____

ORDER in the **APPROVAL** of application AD-1705 filed by Nick Klingensmith, Law Office of Bill Kloos PC, on behalf of Elk River Property Development LLC to develop a pipeline and reservoir to be used to irrigate a golf course on a portion of a property having a zoning designation of Exclusive Farm Use (EFU) and identified on Curry County Assessor's Map No 31-15-00, Tax Lot 04400, and Map No. 32- 15-29C, Tax Lots 00300, 00500, and ancillary facilities proposed to be developed on Map No. 29-15-32C, Tax Lot 298, Map No. 32-15-29C, Tax Lots 00103, 00104, 00105, 00106, 00107, 00108, 00118, 00120, 00121, and Map No. 32-15-29D, Tax Lot 00621, and a public right of way in Curry County, Oregon.

WHEREAS: This matter came before the Curry County Board of Commissioners as an application for a land use decision pursuant to Curry County Zoning Ordinance pursuant to Article II, Section 2.010(2) (c). The application sought conditional use approval for property identified on the Curry County Assessor's Map No. 32-15-00, Tax Lot 04400 and Map No. 32-15-29C, Tax Lot 00300; and located west of US Highway 101 north of Port Orford.

WHEREAS: The hearing was held before the Board of Commissions as a matter duly set upon the agenda of its regular January 17, 2018 meeting after giving public notice to affected property owners and publication in the local newspaper. The public hearing was a de novo hearing to review an appeal of a December 14, 2017 Curry County Planning action to deny authorization of AD-1705.

WHEREAS: The Board of Commissioners, after receiving public testimony on January 17, 2018, closed the public hearing and moved to reconvene to February 14, 2018 for deliberation only. The written record was left open until 4:00 PM on January 31, 2018 for submission of new testimony; until 5 PM on February 7 for rebuttal material submitted in the prior two week period; and until February 14, 2018 for submission of final arguments by the Applicant.

WHEREAS: On February 14, 2018, the Board of Commissioners resumed the proceedings for deliberation based on the evidence submitted into the record. No new testimony was taken. At the conclusion of the February 14, 2018 deliberations, after consideration of the evidence and upon a motion duly made and seconded, the Board of Commissioners directed the preparation of a Final Order with the decision criteria and findings of fact and conclusions of law as set forth in this order and in Attachment 1 attached hereto for Board action on February 21, 2018.

FINDINGS OF FACT:

The Board of Commissioners adopts the decision criteria and findings in Attachment 1 and consideration of written and oral testimony submitted by the applicant and the public as the basis for this decision.

CONCLUSIONS OF LAW:

1. The burden of proof is upon the Applicant in providing the proposal complies with applicable Curry County Zoning Ordinance criteria, Oregon State Statutes and Oregon Administrative Rules.
2. The Board of Commissioners finds that the findings and conclusions set forth in Attachment 1 and the evidence and testimony presented at the public hearing address relevant Curry County Zoning Ordinance and Oregon State Statute and Administrative Rules sufficiently to support the burden of proof for the requested authorization.
3. The Board of Commissioners finds that the Applicant has met the burden of proof to support authorization of the proposed alternatives analysis.

NOW, THEREFORE BE IT ORDERED, on February 21, 2018, that application AD-1705 is **APPROVED** this 21st day of February, 2018 subject to meeting all state and county requirements and the following conditions:

PRIOR TO CONSTRUCTION OF PIPELINE

1. Receive approval from the Oregon State Department of Environmental Quality.
2. Receive any and all local permits from the County with respect to installing facilities in County right-of-way.
3. Applicant shall secure all necessary permits for all pipeline locations within state right- of-way, from ODOT.
4. Applicant shall submit to and secure from ODOT regarding all locations, and construction means and methods (i.e.plans reviews), prior to construction.

Dated this 21st day of February, 2018.

CURRY COUNTY BOARD OF COMMISSIONERS

Approved as to form:

Sue Gold, Chair

John Hutt
Curry County Legal Counsel

Tom Huxley, Vice Chair

Court Boice, Commissioner

ATTACHMENT 1 DECISION CRITERIA AND FINDINGS

Introduction

The Pacific Gales golf course is under construction on the site of the Knapp Ranch. The developer now intends to use reclaimed wastewater from the City of Port Orford to irrigate the golf course. That requires approval of a pipeline route from the City, through the County, and to the golf course. The City and the County must review the alternative routes. The state DEQ must approve the technical aspects of the proposal.

The City has approved the pipeline routing; the present request is for county approval of the routing; the DEQ advises that its review of the technical aspects is underway and will be completed after the City and County approvals.

The Planning Commission initially heard this application. It denied the application in an order and an amended order. The applicant appealed the denials to this Board, which conducted a full hearing. This Order approves the proposed use, based on the standards that apply, and addresses the issues raised by the opponents.

Summary

Development of the Pacific Gales Golf Course was initially approved by the County in 2015; it was appealed to LUBA twice by the Oregon Coast Alliance (ORCA). LUBA affirmed the approval in January 2016. As required by the conditions of approval, construction of the golf course began during the first year following the initial approval. During that time the owner spent substantial sums of money and resources on required site clearing, removal of noxious vegetation, and well construction.

After LUBA affirmed the county approval, the developer determined that reclaimed wastewater from the Port Orford treatment facility could be used to irrigate the golf course. Using reclaimed water would support the golf course, benefit the City, and reduce the impact on groundwater resources. Using reclaimed wastewater in this way is explicitly allowed by state law, subject to review of pipeline routing by the City and the County, and review of technical issues by the DEQ.

The owner received approval from the City for its preferred pipeline routing on June 16, 2017. It then applied to the County for review and approval of its preferred pipeline routing. ORCA and its members opposed using reclaimed wastewater in this way. The Planning Commission held a public hearing, considered a staff report recommending approval, and also considered supporting and opposing testimony. The Commission then denied the request on November 7. It then issued an amended order denying the request on December 14. The applicant appealed both Planning Commission denials to the Board of Commissioners. This decision resolves that appeal.

The Board held a public hearing on January 17, 2018, closed the public hearing at that time, but left the record open for written evidence, rebuttal evidence, and final argument by the applicant.

This Board approves the proposed use as in compliance with the state law standards that apply, subject to four conditions listed in the body of this Order.

As explained in the Staff Report, only state law applies to this application, and the state law sets a very low threshold for the applicant to get over. The applicant merely needs to “explain in writing how alternatives identified in public comments on the land use decision were considered, and if the alternatives are not used, explain in writing the reasons for not using the alternatives.” ORS 215.246.

The applicant has met its burden to address alternative routings for the facilities. Its application showed a preferred and alternative route for the facilities. The applicant also has addressed other alternative routings that were suggested by opponents of the proposal. Nothing more is required of the applicant to be entitled to an approval of its application.

As explained in more detail in the findings below, none of the objections raised by opponents provides a basis to deny the application. The principal objections can be summarized and resolved as follows:

1. The applicant has addressed alternatives identified with sufficient specificity in the public process.
2. Approval of this application does not require first having an existing, valid land use approval for a golf course at the site of the proposed use of reclaimed water.
3. Furthermore, there is a valid golf course approval at the site of the proposed use of reclaimed wastewater. Condition 1 on the 2015 county approval of the golf course did not require an extension of the approval in the first year because the golf course development was initiated during the first year.
4. The use proposed here is not an “urban” level of use that requires the County to justify an exception to Statewide Planning Goal 11 -- Public Facilities.
5. The state law that applies does not require the DEQ to approve this use before the County may approve this use.
6. ORCA's allegations of wetland destruction on the golf course site are not relevant to a decision on this application and are also unfounded.
7. Other objections raised by ORCA do not identify any issue that is relevant to standards that apply to this decision.

Detailed Findings Supporting Approval

These findings provide a more detailed explanation of the applicant is entitled to an approval of the proposed use. Key documents relied upon here include:

- Applicant's Written Statement (July 6, 2017);
- Applicant's Statement on Initiation of Development Activity (Jan. 2, 2017)
- Staff Report for the September 21 Planning Commission hearing;
- Staff Report for the Board January 17 hearing;
- County Counsel Memo to Planning Commission (July 2017)
- County Counsel Memo to Planning Commission (Oct. 11, 2017)
- County Counsel Memo to Board (Oct. 24, 2017)
- County Counsel Memo to Board (Nov. 27, 2017)

Nature of the Application

The applicant's Written Statement summarizes the proposal generally:

"Elk River Property Development, LLC (referred to hereafter as "ERPD") is proposing to use reclaimed wastewater for irrigating a golf course on the property commonly known as the Knapp Ranch, which is zoned Exclusive Farm Use. The use of reclaimed wastewater includes the development of a pipeline that originates at the City of Port Orford municipal wastewater treatment plant, the creation of a reservoir adjacent to the ultimate place of use, and development of ancillary facilities, such as pumps. This application requests the county to conduct a public process required by statute when uses of this nature are proposed."

The applicant's Written Statement then describes in more detailed what is proposed:

"The current proposal includes the placement of a pipe under public rights-of-way (with alternative routes to be considered), the development of a pond at the golf course that would contain the treated water at the golf course, the use of this water for irrigation during the appropriate seasons, and the development of ancillary components of the system, such as a pump station and valves. A detailed description of the proposed irrigation system and the alternative pipeline routes have been prepared, and are attached as components of Exhibit A [to the Written Statement]."

Discussion of Standards that apply to the decision.

The Applicant's Written Statement identifies the state law standards that apply and explains why the proposal complies with state law. The Staff Report for the September 21 Planning Commission hearing identifies the same standards and also explains why the proposal complies with state law.

The statutes that regulate uses on EFU land explain that the proposed use is allowed outright.

ORS 215.283(1) *The following uses may be established in any area zoned for exclusive farm use:*

[...]

(v) *Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695 (License required to perform sewage disposal services), 459.205 (Permit required), 468B.050 (Water quality permit), 468B.053 (Alternatives to obtaining water quality permit) or 468B.055 (Plans and specifications for disposal, treatment and sewerage systems), or in compliance with rules adopted under ORS 468B.095 (Use of sludge on agricultural, horticultural or silvicultural land), and as provided in ORS 215.246 (Approval of land application of certain substances) to 215.251 (Relationship to other farm uses), the land application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.*

The types of uses listed in ORS 215.283(1) are those uses allowed outright. Sub-section (v) includes “the land application of reclaimed water [...]”. The use proposed in this instance is the land application of reclaimed water “as provided in ORS 215.246.” The statute requires the land application of reclaimed water to have a license, permit, or other approval from DEQ. The record shows that the applicant is in the process of obtaining the necessary “reclaimed wastewater use permit,” or “RWUP” from DEQ. This statute also makes reference to ORS 215.246, which imposes a requirement to conduct an alternatives analysis. DEQ cannot issue its RWUP until the alternatives analysis has been completed. The findings below address the provisions of ORS 215.246, including the alternatives analysis done by the applicant.

ORS 215.246 Approval of land application of certain substances; subsequent use of tract of land; consideration of alternatives. (1) *The uses allowed under ORS 215.213 (1)(y) and 215.283 (1)(v):*

(a) *Require a determination by the Department of Environmental Quality, in conjunction with the department’s review of a license, permit or approval, that the application rates and site management practices for the land application of reclaimed water, agricultural or industrial process water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not reduce the productivity of the tract.*

The record shows that the DEQ is currently reviewing the application for a Wastewater Pollution Control Facility Permit (WPCF) and a Reclaimed Water Use Permit (RWUP). The state agency review looks at the proposed application rate, site practices, water quality, and other criteria, and it will ensure the continued productivity of the land will not be harmed by this proposal. As explained by the Applicant, the DEQ’s review is being conducted concurrently with this county review. Communication between county staff and the DEQ confirms that the DEQ expects the County to complete its review before the DEQ will complete its technical review. County approval can be conditioned upon the applicant securing DEQ approval before the applicant begins to develop or use its proposal for a reclaimed wastewater irrigation system. The Board has imposed a condition of approval to that effect.

(b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS 215.274, 215.275 or 215.296.

This provision requires the applicant to demonstrate that there are not additional statutes that apply to the proposal, or, if there are, that the proposal complies with them. As explained below, the proposed use of reclaimed wastewater is not “subject to other provisions” of any of the listed statutes.

ORS 215.213 does not apply in the current context, because it applies only in marginal lands counties, which Curry County is not.

ORS 215.283 applies to non-marginal lands counties, such as Curry County, and that statute includes a list of uses allowed outright in EFU-zoned lands, including “the land application of reclaimed water”. The only “other provision” imposed on this type of use by ORS 215.283 is the review required under ORS 215.246. In this situation, ORS 215.283(1)(v) and ORS 215.246(1)(b) make circular references to each other. This land use application initiates the review required by ORS 215.246.

ORS 215.274 does not apply to the current application, as it deals solely with electrical transmission lines.

ORS 215.275 applies only to “utility facilities necessary for public service.” Those types of utility facilities are specifically defined and regulated by ORS 215.283(1)(c)(A). These “utility facilities necessary for public service” do not include the private wastewater utility facility that is proposed in this instance, which is separately regulated by ORS 215.283(1)(v).

ORS 215.296 applies only to the uses that can be conditionally approved within the scope of ORS 215.283(2). The proposal is one of the uses allowed outright under ORS 215.283(1), and is not subject to ORS 215.283(2).

In summary, the statutes listed in section (1)(b) of the statute do not impose “other provisions” on the proposed use, aside from the provisions of ORS 215.246, which this application was submitted to address.

(2) The use of a tract of land on which the land application of reclaimed water, agricultural or industrial process water or biosolids has occurred under this section may not be changed to allow a different use unless:

[subsections (a) through (d) omitted for brevity.]

ORS 215.246(2) applies only to lands where application of “reclaimed water, agricultural or industrial process water or biosolids” has already occurred, and where a change of use has subsequently been proposed for those lands. This standard does not apply to the current situation. Instead, the applicant is proposing to begin irrigating the lands with reclaimed water.

(3) When a state agency or a local government makes a land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids under a license, permit or approval by the Department of Environmental Quality, the applicant shall explain in writing how alternatives identified in public comments on the land use decision were considered and, if the alternatives are not used, explain in writing the reasons for not using the alternatives. The applicant must consider only those alternatives that are identified with sufficient specificity to afford the applicant an adequate opportunity to consider the alternatives. A land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids may not be reversed or remanded under this subsection unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.

This provision of the statute is the core substantive standard that must be addressed in this decision. ORS 215.246(3) requires an applicant for this type of development to consider “alternatives identified in public comments.”

Exhibit A to the applicant’s written statement includes a more detailed explanation of what is proposed and also relevant graphics. That description is incorporated here. The main proposal, described generally, involves the movement of reclaimed wastewater to the golf course, where it can be used for irrigation. The initial application proposed a “preferred route” and an “alternative route.”

The attorney for ORCA suggested two alternate routings for the pipeline in his January 31 letter. The applicant then explained in its rebuttal comments why the suggested alternative routings were not used. See discussion of specific issues below.

(4) The uses allowed under this section include:

(a) The treatment of reclaimed water, agricultural or industrial process water or biosolids that occurs as a result of the land application;

Consistent with subsection (a), and in addition to the water quality treatments conducted at the Port Orford sewage treatment plant, natural processes will lead to continued improvements in water quality, such as exposure to UV light while the water is impounded in the pond at the golf course, and exposure to natural soil microbes that will digest nutrients and other substances found in trace amounts in the treated water. This will amount to passive “treatment” of the reclaimed water that occurs as a result of the land application.

(b) The establishment and use of facilities, including buildings, equipment, aerated and nonaerated water impoundments, pumps and other irrigation equipment, that are accessory to and reasonably necessary for the land application to occur on the subject tract;

Pursuant to subsection (b), the applicant has described the improvements that will be necessary for the use of reclaimed wastewater on the tract where the irrigation will occur. These improvements will include a portion of the pipe that delivers the treated water, a pond that will store water, pumps and irrigation equipment, and a small pumphouse that will shelter the irrigation equipment.

(c) The establishment and use of facilities, including buildings and equipment, that are not on the tract on which the land application occurs for the transport of reclaimed water, agricultural or industrial process water or biosolids to the tract on which the land application occurs if the facilities are located within:

(A) A public right of way; or

(B) Other land if the landowner provides written consent and the owner of the facility complies with ORS 215.275 (4); and

(d) The transport by vehicle of reclaimed water or agricultural or industrial process water to a tract on which the water will be applied to land.

The application materials demonstrate that the applicant controls or has permission to use lands needed for the preferred and alternative route for the facilities.

(5) Uses not allowed under this section include:

(a) The establishment and use of facilities, including buildings or equipment, for the treatment of reclaimed water, agricultural or industrial process water or biosolids other than those treatment facilities related to the treatment that occurs as a result of the land application; or

(b) The establishment and use of utility facility service lines allowed under ORS 215.213 (1)(x) or 215.283 (1)(u).

All water quality treatments will occur at the existing site of the Port Orford sewage treatment plant. Some degree of water quality improvement that is expected to occur incidentally to storing the reclaimed water in the pond and then applying it to the golf course, where it will be exposed to soil microbes and other natural processes. The water that is currently being discharged from the City of Port Orford's treatment plant is already treated to such a high level that it is permitted to be discharged directly into the ocean.

This application does not propose any utility facility service lines. The current proposal involves the delivery, storage and use of reclaimed wastewater, as specifically allowed by ORS 215.283(1)(v) and ORS 283.246(3). The pipeline delivering the reclaimed wastewater is not a "utility service line" within the meaning of this statute because it is one of the necessary "facilities [...] for the transport of reclaimed water," specifically allowed under ORS 283.246(4)(c).

Issues raised by the Planning Commission and the parties

1. The applicant has addressed alternatives identified with sufficient specificity in the public process.

As quoted above, ORS 215.246(3) the applicant must explain in writing the reasons for not using alternatives sufficiently specified alternatives suggested in the public process. The applicant has done that here.

The January 31, 2018, letter from Sean Malone on behalf of ORCA suggested that the pipeline routing could fully utilize Highway 101. In his rebuttal evidence submitted on February 7, 2018, the Managing Partner of the applicant explained that the Highway 101 corridor was not used in order to avoid the disruption on the main transportation corridor through the City. See email letter from Jim Haley to Board (Feb. 7. 2018).

The January 31, 2018, letter from Sean Malone on behalf of ORCA also suggested that the pipeline routing could have used Arizona Street. In his rebuttal evidence submitted on February 7, 2018, the Managing Partner of the applicant explained that the Arizona Street routing: (a) would have used a bridge over Garrison Creek that is failing; and (b) that routing also would have required permitting from the Division of State Lands. See email letter from Jim Haley to Board (Feb. 7. 2018).

2. Approval of this application does not require first having an existing, valid land use approval for a golf course at the site of the proposed use of reclaimed water.

The state statute that applies here allows “the land application of reclaimed water” for “irrigation in connection with a use allowed in an exclusive farm use zone.” See ORS 215.283(1)(v) quoted above.

The Planning Commission, and opponents of this proposal, assume that the use of reclaimed water can only be approved if the golf course has an existing, valid land use approval from the County. Whether the applicant must also prove up on the status of the golf course approval in the context of this application is a question of state law. However, the Board views the position of ORCA and the Planning Commission on this issue as not based on the language of the statute and as not correct.

The statute does not say that the land use where the reclaimed water will be applied must be in existence before the land application can be approved. As the County Attorney advised in his October 11, 2017, memorandum to the Planning Commission, “a valid existing CUP for a golf course is not required for the Commission to approve the current permit request.” An applicant for a golf course, or for another use allowed by the statute in the EFU zone, could first apply for and receive approval to use the reclaimed water for the proposed land use and then later secure approval to develop the golf course or other use allowed in the EFU zone. Looked at differently, the EFU statute lists both uses at issue here as uses allowed in the EFU zone -- a golf course, and use of reclaimed water in connection with a use allowed in the EFU zone. It does not specify which allowed use must come first.

In summary, arguments about the current status of the golf course approved by the County in 2015 are not relevant to whether this proposed use of reclaimed water can be approved by the County now.

Related to this issue, ORCA argued that the reclaimed water use cannot be approved without amending the scope of the land use approval for the golf course. See Letter from Sean Malone to Commission (Oct. 19, 2017). The ORCA theory is that golf course approval was premised upon using ground water, and switching to reclaimed water requires amending the golf course approval. This objection is not a basis for denial of this application. Because the golf course approval need not be in hand in order to approve this use, which is also allowed in the EFU zone, the scope of the actual golf course approval also is not relevant to this approval.

3. Furthermore, there is a valid golf course approval at the site of the proposed use of reclaimed wastewater. Condition 1 on the 2015 county approval of the golf course did not require an extension of the approval in the first year because the golf course development was initiated during the first year.

The findings made here are premised on the assumption, rejected above, that the applicant for this proposed use of reclaimed water must also prove that it has a valid land use approval for

the golf course. The Board finds that the applicant has a valid land use approval for the golf course.

The Planning Commission focused on Condition 1 of the Board's 2015 approval of a CUP for this golf course. Condition 1 says:

1. This conditional use permit is valid for one (1) year unless Applicant applies for and receives an extension of this approval.

Condition 1 was imposed on the CUP approval by the Board to implement the time limits provision stated in Section 7.050 of the then current code, which said, in relevant part:

"1. Authorization of a conditional use, in general, shall become null and void after one year unless substantial construction has taken place or an extension has been granted under Section 7.050 (4). Substantial construction in this case means obtaining all necessary permits required by governmental agencies to commence construction of any structures or to commence the principal activity permitted by the conditional use permit."

"* * * *

"4. The Director or Commission may at its discretion issue conditional use permits which must be periodically reviewed to ascertain that the conditions of the permit are being complied with on a continuing basis. A discretionary decision approving development on agricultural or forest outside an Urban Growth Boundary (UGB) is void two years from the date of the final decision if the development is not initiated in that period."

Condition 1 is ambiguous because it is not explicit about when an extension request is no longer needed. Condition 1 is to be read and understood in conjunction with the code language it was intended to implement. That code language is quoted above.

Subsection 1 quoted above applies to conditional use permits "in general." Subsection 4 applies more particularly to conditional use permits issued for agricultural land and outside of urban growth boundaries. Subsection 4 is more relevant here because the golf course use was approved on agricultural land outside of an urban growth boundary. Although subsection 4 establishes a two-year period for the validity of a permit, Condition 1 reduced that to a one-year period of validity.

Reading the code sections above together with the language of Condition 1 on the golf course approval, the Board determines that Condition 1 on the approval required the permit holder to apply for an extension of the approval within one year if development was not initiated in the first year.

The Board finds, based on the evidence in the record, that the approved development was initiated during the first year of the approval. Therefore, the conditional use permit remains valid under Condition 1 of the 2015 approval.

The zoning code is helpful in defining what kinds of activity constitute "development." CCZO 1.030(34) defines "Development Activity."

"(34) Development Activity. Any use or proposed use of land that requires disturbance of the vegetation or soils or which requires action of the Planning Division or Building Division to allow the construction or modification of structures

or other improvements or to allow the division of the land.”

The applicant has provided documentary evidence and supporting argument showing development activity that occurred during the first year of the conditional use permit approval. See evidence provided with January 2, 2018, transmittal to the Board. The evidence can be summarized as follows:

Photos from March 3, 2015, showing heavy equipment (bulldozers, excavators, fuel trucks) performing the removal of invasive gorse on the golf course development site. Removal of invasive plants was an essential and required element of the original CUP approval. These photos (along with the date-stamped emails) are included as Exhibits A-F.

Equipment costs for the two bulldozers and two excavators that were used in performing this ground-clearing. The heavy equipment is owned by the permit holder, but the equivalent rental costs can be used as a way to approximate the permit holder's expense in the depreciation and wear-and-tear that this type of work places on the equipment. These calculations are included as Exhibit G. Checkbook register from Highland Golf Services Inc. (a company owned by members of Elk River Property Development, LLC) showing it paid \$16,459.06 from the period of February, 2015 to June, 2015 for fuel and heavy equipment operator services provided by Jeff Knapp. This evidence is included as Exhibit H.

An invoice from Bandon Well & Pump Co., showing the drilling of two wells on the property at a cost of \$12,303.80. These wells will likely be used for supplying the potable water to the golf course club house, pursuant to the original land use proposal, and pursuant to ORS 537.545(1)(f). This invoice is included as Exhibit I.

The evidence summarized above shows that the permit holder spent substantial sums of money and initiated the development activity authorized by the CUP within the one-year period following the January 15, 2015 date that the CUP was first issued. Because the permit holder initiated this development activity within the required time period, the permit did not lapse at the end of the first year, as Condition 1 imposed on the permit anticipated could happen.

The challenge to the continued validity of the county's golf course approval was raised by ORCA throughout this proceeding. ORCA's contention has been that the conditional use permit expired due to the failure of the applicant to request an extension of the approval as required by Condition 1 on the approval. ORCA's post-hearing submittal dated January 31 restated its expired land use approval theory, although that letter did not reference a standard or condition to support that theory. The Board assumes, therefore, that the "expired approval" issue raised on January 31 is a reference to ORCA's earlier discussion of Condition 1 on the approval.

4. The use proposed here is not an “urban” level of use that requires the County to justify an exception to Statewide Planning Goal 11 -- Public Facilities.

ORCA contended, in its October 19 letter to the Commission, that the applicant and the county have not justified this proposed use of water as a “rural” use, rather than an “urban” use which would require an exception to Goal 11 -- Public Facilities. This argument is not well taken. The proposed use can be fairly characterized as an irrigation use on a golf course, which is a rural use allowed on EFU land. Irrigating a rural use does not logically transform the rural use into an urban use.

5. The state law that applies does not require the DEQ to approve this use before the County may approve this use.

Opponents have alleged several times, most recently in the January 31 letter from Sean Malone on behalf of ORCA, that the DEQ approval of the proposed use must be in hand before the County may approve this application. See also Malone letter to the Commission dated October 19, 2017. Although this is a question of state law, the County believes that ORCA’s view of the law is not well taken.

The statute that authorizes this use does not explicitly require that the DEQ approve the use before the County approves the use. The better view is as explained in the County Counsel’s memorandum to the Commission dated October 24, 2017. The application to the DEQ is required to explain to the DEQ what alternatives were considered. This suggests that the County review and approval, which considers alternatives, should come first.

In addition to the above, the DEQ has informed the County that in its view, based on the DEQ’s contribution to the enactment of the statute authorizing its approval for the use of reclaimed water, the County is to complete its review before the DEQ completes its review and final approval. See email from Ranei Nomura, DEQ Water Quality Permitting Manager, to Jacob Callister, LCOG (Nov. 27, 2017).

6. ORCA’s allegations of wetland destruction on the golf course site are not relevant to a decision on this application and are also unfounded.

The January 17, 2018, letter from Sean Malone to the Board alleges wetland destruction in conjunction with earthwork for the golf course. The basis for this allegation is the photographs submitted by the applicant to show golf course construction, as discussed above. The ORCA letter also alleges violation of conditions of approval relating to wetlands.

Initially, the issue of impacts on wetlands in conjunction with golf course construction is unrelated to any standard for a decision on this application.

Furthermore, the allegations of permit violation misstate the conditions of approval on the golf course and also make bald conclusions that are not supported by the record.

ORCA summarizes the conditions of approval on the golf course as requiring a wetland delineation to be secured before any activity on the property. This misstates Conditions of approval 10 and 11 on the golf course approval. These conditions require:

10. An onsite inspection by a qualified wetland consultant shall be conducted prior to ground disturbing activities and site development to determine if the proposed project may impact wetlands. Where wetlands are present, wetland delineation is needed to determine precise wetland boundaries and setbacks.

11. The wetland delineation report shall be submitted to Department of State Lands (DSL) for review and approval.

Condition 10 requires an onsite inspection prior to ground disturbing activity, not a full wetland delineation as ORCA asserts. ORCA has misstated the condition of approval. ORCA has not submitted evidence that the required inspection was not done prior to ground disturbing activity, as required by the condition. More significantly, other than pointing to the applicant's photographs of earth work on the site, ORCA has not pointed to any evidence of wetlands being disturbed. ORCA has not explained why the applicant's photos show impacts on wetlands.

7. Other objections raised by ORCA do not identify any issue that is relevant to standards that apply to this decision.

ORCA and its members raised many objections to this proposal. However, as discussed above, the issues that are relevant to the standards for this decision are quite narrow. To the extent the issues raised by ORCA have not been explicitly addressed above, the Board finds those issues not to have invoked any standard that applies to this decision. Therefore, those issues do not require a separate response by the Board.

CURRY COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM ROUTING SLIP
FORM 10-001.1 Rev. 1-5-2018

PART I – SUBMITTING DEPARTMENT: RETURN TO [BOC OFFICE@CO.CURRY.OR.US](mailto:BOC_OFFICE@CO.CURRY.OR.US)

PROPOSED AGENDA ITEM TITLE: 2018-2019 Revised Adopted Budget Calendar

TIMELY FILED Yes No

If No, justification to include with next BOC Meeting

AGENDA DATE^a: 02-21-2018 **DEPARTMENT:** Finance **TIME NEEDED:** 5 min
(*Submit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))

MEMO ATTACHED Yes No If no memo, explain: **See background below**

CONTACT PERSON: Louise Kallstrom **PHONE/EXT:** 3232 **TODAY’S DATE:** 02/16/18

BRIEF BACKGROUND OR NOTE: (If no memo attached) Changes of dates to Adopted Budget Calendar in bold and underlined in attached Revised Adopted Budget Calendar

FILES ATTACHED:

- (1) Revised 2018-2019 Adopted Budget Calendar
- (2)
- (3)

QUESTIONS:

- 1. Would this item be a departure from the Annual Budget if approved? Yes No
(If Yes, brief detail) Supplemental
- 2. Does this agenda item impact any other County department? Yes No
(If Yes, brief detail)
- 3. Does Agenda Item impact County personnel resources? Yes No
(If Yes, brief detail)

INSTRUCTIONS ONCE SIGNED:

No Additional Activity Required

OR

File with County Clerk

Name:

Send Printed Copy to:

Address:

Email a Digital Copy to:

City/State/Zip:

Other

Phone:

*Note: Most signed documents are filed/recorded with the Clerk per standard process.

PART III - FINANCE DEPARTMENT REVIEW

EVALUATION CRITERIA 1-4:

- 1. Confirmed Submitting Department’s finance-related responses Yes No N/A
Comment:
- 2. Confirmed Submitting Department’s personnel-related materials Yes No N/A
Comment:
- 3. If job description, Salary Committee reviewed: Yes No N/A
- 4. If hire order requires a Personnel Action Form (PAF)? Pending N/A No HR

PART IV – COUNTY ADMINISTRATOR REVIEW

APPROVED FOR _____ BOC MEETING Not Approved for BOC Agenda because

LEGAL ASSESSMENT: Does this agenda item have a legal impact? Yes No
(If Yes, brief detail)

ASSIGNED TO:

PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL

COMMISSIONERS’ REQUEST TO ADD TO AGENDA:

- Commissioner Sue Gold Yes No
- Commissioner Thomas Huxley Yes No
- Commissioner Court Boice Yes No

2018-2019 ADOPTED BUDGET CALENDAR (REVISED)
FOR THE FISCAL YEAR ENDING 30 JUNE 2019

Monday, Feb 12	Department Head Budget Meetings
Tuesday, Feb 13	Department Head Budget Meetings
Wednesday, Feb 14	Department Head Budget Meetings
Thursday, Feb 15	Department Head Budget Meetings
Friday, Feb 16	Department Head Budget Meetings
Tuesday, Feb 20	(Backup Department Head Budget Meetings)
Wednesday, <u>March 28</u>	BOC Workshop: Fiscal Year 2018-2019 Budget Workshop
Friday, April 6	Budget Officer distributes Budget Worksheets to Dept Heads
Wednesday, <u>April 18</u>	Department Heads return Budget Worksheets to Budget Officer
Wednesday, April 25	Publish Notice of Budget Committee Meetings in newspaper and on website
Monday, May 7	Organizational Meeting of Budget Committee, Public Comment, Budget Officer distributes FY2018-2019 Proposed Budget and reads Budget Message to Budget Committee
Monday, May 14	Department Heads present Budgets to Budget Committee
Tuesday, May 15	Department Heads present Budgets to Budget Committee
Wednesday, May 16	Department Heads present Budgets to Budget Committee
Thursday, May 17	Department Heads present Budgets to Budget Committee
<u>Monday, May 21</u>	Department Heads present Budgets to Budget Committee; Budget Deliberations, Motion and approve Budget and County tax rates/amounts
Wednesday, June 6	Publication of Notice of Hearing and Financial Summary of Approved Budget
Wednesday, June 20	Public hearing on Approved Budget conducted by Board of Commissioners prior to Board Meeting
Wednesday, June 20	Regular Board Meeting - Board of Commissioners enacts resolutions adopting Budget, making appropriations, and levying taxes



Community Development Department January 2018 Activity Building, Economic Development, Planning

Department Administration and funding

- December revenue - \$26,180
- December 2017 activity report prep
- Research/preparation of information - Senior Planner/Code Enforcement position.
- Evaluation of new copy machine opportunity, related paperwork and follow up.
- Code enforcement letter – Elk River road property
- Evaluation of building appeals board options
- Work on new County website for Department
- Communication/staff on time/materials charges/processes for IGA work.
- Discussions with City of Brookings regarding potential for IGA
- Paperwork and preparations for Travel show
- Staff evaluations
- Preliminary work on budget for FY 2018.2019
- Award of All Care grant and follow up paperwork
- Meeting with ISO regarding survey for building division information

Economic Development Division

- Preparation and presentation of BOC staff report regarding Curry County Enterprise zone
- State Parks grant research and evaluation, preparation of information for the Board
- Update work on Travel Curry Coast web site
- Attendance and participation in the Travel Southern Oregon Coast consortium
- Meeting with realtors to get their feedback on potential upcoming Accessory dwelling unit changes to the Zoning Ordinance
- Meeting with All Care board presenting proposal for funding for advertisement and education about Accessory dwelling units.

Planning Division

- Permit activity: 1 CUP, 3 Land Use Compatibility Statements, 1 replacement address, and 5 Planning Clearance reviews.
- Continued work and preparation for BOC hearings on the Elk River Development LLC AD-1705 application
- Work on Pickleball project.
- Preparation of BOC staff report regarding Planning Commission
- Forest Grazing/timber and AG/EFU zoning work to prepare for future BOC review
- Communication with ODF, Citizen Involvement Committee regarding wildfire hazards mapping and engagement in ODF pilot program.
- Watershed Council meeting participation
- Meeting with DEQ staff regarding various projects

Building Division

- Building Permits: 37 Permits issued
- Building Inspections: 124 completed
- Phone calls and walk in visits - 400 served
- Work on larger building projects continue with continuance of Curry Library expansion, near completion of new bar in Port Orford, and completion of roof and seismic improvements at Port Orford and Gold Beach Schools Applications.

CURRY COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM ROUTING SLIP
FORM 10-001.1 Rev. 11-21-2017

PART I – SUBMITTING DEPARTMENT: RETURN TO [BOC OFFICE@CO.CURRY.OR.US](mailto:BOC_OFFICE@CO.CURRY.OR.US)

PROPOSED AGENDA ITEM TITLE: Surveyor's Report for January 2018

TIMELY FILED Yes No

If No, justification to include with next BOC Meeting

AGENDA DATE^a: 2/21/18 **DEPARTMENT:** County Surveyor **TIME NEEDED:** 5 Minutes

^a(Submit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))

MEMO ATTACHED Yes No If no memo, explain:

CONTACT PERSON: Reily Smith **PHONE/EXT:** 3225 **TODAY'S DATE:** Feb.6, 2018

BRIEF BACKGROUND OR NOTE: (If no memo attached)

FILES ATTACHED:

- (1)
- (2)
- (3)

QUESTIONS:

1. Would this item be a departure from the Annual Budget if approved? Yes No
(If Yes, brief detail)
2. Does this agenda item impact any other County department? Yes No
(If Yes, brief detail)
3. Does Agenda Item impact County personnel resources? Yes No
(If Yes, brief detail)

INSTRUCTIONS ONCE SIGNED:

No Additional Activity Required

OR

File with County Clerk

Name:

Send Printed Copy to:

Address:

Email a Digital Copy to:

City/State/Zip:

Other

Phone:

***Note: Most signed documents are filed/recorded with the Clerk per standard process.**

PART III - FINANCE DEPARTMENT REVIEW

EVALUATION CRITERIA 1-4:

1. Confirmed Submitting Department's finance-related responses Yes No N/A
Comment:
2. Confirmed Submitting Department's personnel-related materials Yes No N/A
Comment:
3. If job description, Salary Committee reviewed: Yes No N/A
4. If hire order requires a Personnel Action Form (PAF)? Pending N/A No HR

PART IV – COUNTY ADMINISTRATOR REVIEW

APPROVED FOR 02/21/18 **BOC MEETING** **Not Approved for BOC Agenda because**

LEGAL ASSESSMENT: Does this agenda item have a legal impact? Yes No
(If Yes, brief detail)

ASSIGNED TO: CONSENT

PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL

COMMISSIONERS' REQUEST TO ADD TO AGENDA:

- Commissioner Thomas Huxley Yes No
Commissioner Sue Gold Yes No
Commissioner Court Boice Yes No

CURRY COUNTY SURVEYOR MONTHLY ACTIVITY REPORT
FOR JANUARY, 2018

County Surveyor Activities:

Barbara has done all the work on the new Revise website. Hopefully, it will be live and working great by the time you see this.

Regretfully, Reily's last day will be February 27, 2018. With this in mind, some of the typical duties of the new County Surveyor per Oregon Revised Statutes (ORS) would include:

- ORS 92: Subdivisions & Partitions. Survey & mapping requirements are outlined. County Surveyor will check the maps (including mathematics), field check the surveys (subdivisions required, partitions if necessary) for compliance.
- ORS 100: Condominiums. Various survey/mapping/checking requirements are spelled out.
- ORS 209: Basic requirements, duties of County Surveyors, requirements of counties pertaining to County Surveyor. Also states many requirements for mapping, surveys & surveyors.
- ORS 672: Oregon State Board of Examiners for Engineering and Land Surveying. Various laws affecting the practice of Land Surveying must be understood.

A list of Mandated Services for the County Surveyor from the Jackson County Website: The mandated services listed below are not all inclusive or intended to serve as legal reference.

O.R.S. Description

209.020 Requires the County Surveyor to perform surveys on the order of any court of record or County Court.

209.030 Requires the County Surveyor to survey property, the title to which is in dispute before any court when lands are divided by a county line, on the order of the court.

209.070(1) Requires the County Surveyor to keep fair and correct records of all surveys made by the county surveyor, his deputies, county road officials and all private surveys that are received for filing.

209.070(3) Requires the County Surveyor to provide copies of the survey records to any person or court requiring the records.

209.070(5) (6) Requires the County Surveyor to "establish or re-establish all corners of government surveys". This includes all section corners and one-quarter corners.

Requires that records be kept relative to these establishments and re-establishments.

209.090 Requires the County Surveyor to procure certain federal survey records and file same.

209.140 Requires the County Surveyor, upon proper notice, to witness, reference and reestablish any corner that is in danger of being disturbed.

209.250 Requires the County Surveyor to inspect all surveys performed by private surveyors for compliance to Oregon Statute and file the same in the office of the County Surveyor.

209.250(9) Requires the County Surveyor to file corner records by private surveyors for government corners that have been changed.

209.255 Requires the County Surveyor to approve record and mark affidavits of correction to survey maps filed by private surveyors.

209.270 Requires the County Surveyor to make survey records available to the public and the records be located in a county facility, designated by the county governing body.

92.065 County Surveyor to complete the post monumentation of recorded subdivisions in the event the original surveyor is unable to do so

92.100(2) Requires the County Surveyor to perform a field, mathematical and office check of all new subdivision plats submitted for recording.

92.100(3) Requires the County Surveyor to perform mathematical and office check of all new partition plats submitted for recording.

92.140 Requires the County Surveyor to index all plats and preserve them as permanent records of the county.

92.170 Requires the County Surveyor to approve, record and mark affidavits of corrections to subdivision and partition plats made by private surveyors.

97.310 Requires the County Surveyor to perform a field, mathematical and office check of all new cemetery plats submitted for recording.

100.115(5) Requires the County Surveyor to check and approve condominium plats submitted for recording in the County.

100.115(9) Requires the County Surveyor to approve condominium Plat Amendments.

100.115(10) Requires the County Surveyor to approve, record and mark affidavits of corrections to condominium plats.

227.120 Requires the County Surveyor to mark on recorded plats street name changes.

271.230 Requires the County Surveyor to mark on certain official records the vacation of towns, plats, roads and public easements.

368.106(4) Requires the County Surveyor to file for record all surveys of County roads.

376.160 Requires the County Surveyor to make investigations and reports for statutory ways of necessity on the order of any court of record or County Court.

Office work:

- Customer service: walk-ins, office phone calls and cell phone calls assisting them with their research, helping with questions relating to surveying, boundaries, easements, encroachments, title, and providing copies/internet links to filed information.
- Providing & maintaining most information on the website so all citizens can access this information on the internet without going to Gold Beach. Records include:
- Maps of Survey, Subdivisions (Tract Maps), Partitions, old unfiled maps, corner records (of Public Land Survey Corners)
- Miscellaneous County Surveyor guides, policies, forms and other information.

Public Land Corner Preservation Account: BR 54, pg. 378, recorded 1/7/1986. "Authorizes this account for the establishment, re-establishment and maintenance of all corners created by government surveys." \$10 is required of all deeds recorded to be used for this purpose.

- The Federal Government surveyed all the lands later deeded to homesteaders and others.
- These surveys laid down the overall boundary control for all land in the Western United States (original 13 colonies were accepted).
- Maintenance of these Public Land Survey System (PLSS) monuments for private lands has been passed to the local governments.
- Until now, this money has been used to update many records in the County Surveyor's Office with information pertaining to these surveys and the monuments & accessories that were set. However, future work will be needed in the field. Initial work has been done to check PLSS monuments/accessories that may have been affected by the Chetco Bar Fire.
- Some provision will have to be made for transportation and equipment for the next County Surveyor to accomplish the field work for the PLSS maintenance.

Suggestions for qualities of a County Surveyor:

- Interested in assisting the public.
- Experience with conducting all types of surveys. Especially land divisions and property surveys
- Private industry experience is helpful in dealing with the many small private surveyors doing business in Curry County. (Government only surveyors have narrow real world experience.)

New Maps of Survey, Property Line Adjustments or Plats filed, scanned, copied and filed (all soon to be online):

1 Survey was completed in the north part of Curry County.
1 Survey was completed near Gold Beach.
3 Surveys were completed near Brookings.

Deposits for December: = \$ 996.00

Reily Smith worked 45.25 hours in January.
Barbara Colton worked 82.25 hours in January.

Respectfully submitted,

Reily Smith, County Surveyor
Barbara Colton, Department Specialist

CURRY COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM ROUTING SLIP

FORM 10-001.1 Rev. 1-5-2018

PART I – SUBMITTING DEPARTMENT: RETURN TO [BOC OFFICE@CO.CURRY.OR.US](mailto:BOC_OFFICE@CO.CURRY.OR.US)

PROPOSED AGENDA ITEM TITLE: Executive Session ORS 192.660(2)(a)and (f)

TIMELY FILED Yes No Acting Interim County Administrator authorization
If No, justification to include with next BOC Meeting

AGENDA DATE^a: 2/21/18 JHuttI **DEPARTMENT:** BOC **TIME NEEDED:** 20 min
(*Submit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))

MEMO ATTACHED Yes No If no memo, explain: **Executive Session Not Public**

CONTACT PERSON: J HuttI **PHONE/EXT:** 3218 **TODAY’S DATE:** 02/15/2018

BRIEF BACKGROUND OR NOTE: (If no memo attached) Continued Discussion from February 14, 2018, without labor negotiation discussion. 192.660 (2) (a) and 192.660 (2) (f)

FILES ATTACHED:

- (1)
- (2)
- (3)

QUESTIONS:

1. Would this item be a departure from the Annual Budget if approved? Yes No
(If Yes, brief detail)
2. Does this agenda item impact any other County department? Yes No
(If Yes, brief detail)
3. Does Agenda Item impact County personnel resources? Yes No
(If Yes, brief detail)

INSTRUCTIONS ONCE SIGNED:

No Additional Activity Required

OR

File with County Clerk

Name:

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City/State/Zip:

Other

Phone:

*Note: Most signed documents are filed/recorded with the Clerk per standard process.

PART III - FINANCE DEPARTMENT REVIEW

EVALUATION CRITERIA 1-4:

1. Confirmed Submitting Department’s finance-related responses Yes No N/A
Comment:
2. Confirmed Submitting Department’s personnel-related materials Yes No N/A
Comment:
3. If job description, Salary Committee reviewed: Yes No N/A
4. If hire order requires a Personnel Action Form (PAF)? Pending N/A No HR

PART IV – COUNTY ADMINISTRATOR REVIEW

APPROVED FOR _____ BOC MEETING Not Approved for BOC Agenda because

LEGAL ASSESSMENT: Does this agenda item have a legal impact? Yes No
(If Yes, brief detail)

ASSIGNED TO: Choose an item.

PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL

COMMISSIONERS’ REQUEST TO ADD TO AGENDA:

Commissioner Sue Gold Yes No

Commissioner Thomas Huxley Yes No

Commissioner Court Boice

Yes No