

Board of Commissioners Meeting  
December 21, 2016

Present: Commissioner Steve McClure  
Commissioner Mark D. Davidson  
Commissioner Jack Howard

Commissioner Howard opened the meeting at 9:00 a.m. and the pledge of allegiance was given with all three commissioners present. He stated that the agenda would be rearranged to accommodate the Baum Industrial Park presentation by Brett Moore. He then offered the opportunity for any public comment specific to the Baum Industrial Park; there were no comments offered on that subject.

**Baum Industrial Park Infrastructure Project Bid Award**

Brett Moore, Anderson Perry & Associates (APA), 1901 Fir Street, La Grande, appreciated the commission's willingness to adjust the agenda. He stated that four bids were received and opened on December 14, 2016:

Warrington Construction Corp. of Oregon	\$319,187
Emery & Sons Construction Group	\$525,959
Steve Lindley Contracting, Inc.	\$542,013
Michael A. Becker General Contractor, Inc.	\$544,155

Mr. Moore stated that bids were established for a base bid, which included utility work and road work up to a gravel road surface. APA also included a few alternative bids. Alternative A is to pave the Industrial Park Improvement area and the existing Industrial Lane road, which provides access to the new area. Alternative B is to pave Landmark Lane, which would facilitate a loop for large trucks. Alternative C is to provide additional utility work to move the utilities to the edge of a lot.

Warrington had a base bid that was significantly lower than other bidders; APA reviewed it with Warrington to make sure they did not see any concerns or make any errors in their bid; Warrington is comfortable with their bid and APA did not see any errors. Warrington also had a recent bid for the City of Enterprise that was this much lower than other bidders and they completed the work in a very satisfactory manner.

Commissioner Howard stated that Warrington's bid was approximately \$200,000 less than the next bidder.

Mr. Moore stated that APA checked Warrington's credentials and is very comfortable awarding the project to Warrington. The added alternative exceeds the available funding by a small amount. If additional funding becomes available, awarding the alternative at a later time may be considered. At this time, APA is recommending to award the base bid amount.

Commissioner McClure asked if APA investigated adequately and was satisfied that the low bidder had not made a mistake in their bid considering the large difference in bids. Mr. Moore stated that was correct. Commissioner McClure asked how much money was available to complete one of the alternatives. Mr. Moore stated that about \$500,000 was available to cover the base bid, leaving just under \$200,000 of remaining funds in the grant that are not dedicated. Alternative A would need an additional \$150,000 to pave Landmark Lane. Commissioner McClure asked how much time is available to make that decision. Mr. Moore stated that based on the contract, 60 days is allowed to award the bid. An added alternative can be added at any time during the contract period. Commissioner McClure felt this was an important consideration because he would like the county

to get as much as it can out of the grant. Mr. Moore agreed that the county wouldn't want to return \$200,000 in grant funds. Commissioner McClure added that the county wouldn't want to go into a hole either.

**Commissioner McClure moved approval of awarding the base bid to Warrington Construction in the amount of \$319,187 for improvements at the Baum Industrial Park. Commissioner Davidson seconded. Motion carried unanimously.**

Commissioner Davidson noted that Mr. Moore was leaving to officiate Stephen Anderson's funeral service and felt it was an appropriate time to discuss the unnamed connector road. Mr. Anderson was not only the founder of APA, but he was also an engaged and passionate civic leader that led the effort to acquire the Baum Industrial Park from Union Pacific Railroad. He felt it would be very fitting that the unnamed road be named after Stephen Anderson.

**Commissioner Davidson made a motion to name the section of road Anderson Lane. Commissioner McClure seconded.**

Commissioner McClure stated that nothing happened with the property for years when Union Pacific had it; Mr. Anderson was instrumental in getting help from the State so that the county could purchase it. There is a group of business people in this community that gave their personal guarantees to do it, and Mr. Anderson was one of them. Mr. Anderson was a leader and it is appropriate to name the road after him. Mr. Anderson did a fantastic job of getting that property into public ownership.

**Roll call on naming Anderson Lane: Commissioner Davidson, yes. Commissioner McClure, yes. Commissioner Howard, yes. Motion carried unanimously.**

### **Public Comments and Concerns**

#### **Animal Shelter Public Comment**

Connie Voelz, 62102 Fruitdale Lane, had concerns about the contract for services with the Blue Mt. Humane Association; she asked if it had been altered since she received a copy. Commissioner McClure stated that there had been no changes, but did not mean that they would not make changes.

Ms. Voelz stated that the contract didn't include the cooperative agreement signed on May 17, 1995; this is a concern because the proposed contract stated that it would supersede all other agreements. The contract was unclear about what kind of donations would be included; does it mean that the county would match the value of all donations, such as vehicles?

Commissioner McClure stated that legal counsel was contacted regarding the 1995 agreement; the question about the land will need to be resolved in the future and this does not aggregate the county's position. He added that the contract refers to donations that are given to Union County for the animal shelter. Donations given directly to the animal shelter belong to them and would not affect the \$50,000 that the county would pay the animal shelter. This section of the contract was included for instances when cities contribute to the amount that the county pays, as the City of La Grande had in the past. Commissioner McClure asked the BMHA staff and members in attendance if he had misspoke in any way; John Rinehart, BMHA President, 2012 Y Avenue, La Grande, and John Brinlee, BMHA Director, both stated that Commissioner McClure was correct.

Ms. Voelz asked if the county would match donations made to the Sheriff's Department/Animal Control in addition to the \$50,000 that that county pays to BMHA, and if so, is there a cap on that amount? Commissioner McClure stated that the county would not match the donations, but would pass the donations through to BMHA.

Ms. Voelz stated that BMHA is a 501(c)3 and if the county is giving them \$50,000 to \$100,000 per year, are other 501(c)3 agencies treated the same way? What is the county buying?

Commissioner McClure stated that the county is buying animal shelter services, including a location to house the animals and care of the animals. The county does not have to contract with BMHA; it could have an arrangement like Baker County where they contract with a veterinarian's office. The shelter was established by the community through a bequest; it has been a community asset and the county will continue in that tradition. He doesn't think the overage will be as high as BMHA estimated. The contract is for six months; the BMHA President has made some very strong public statements about the changes they need to make to be an effective organization. The county has to give it a chance.

Ms. Voelz stated that the daily fee for an impounded animal is \$27, which is more than they list the daily fee of \$19 to board an animal; why is the county paying more for the same care of an animal? Commissioner McClure stated that the county will not pay \$27 per day with the new agreement since it will pay \$50,000 per year for the service. Currently, the county has a temporary arrangement to pay the daily fees for up to five days per dog. Shelley Burgess, Administrative Officer, stated that the impound fees will be collected from the dog owner. The county will pay a quarterly payment for services, not a daily fee per dog.

Commissioner McClure stated that anything that BMHA collects in recovery of an animal belongs to them. The county pays to have the animal taken to the shelter. BMHA can charge recovery and adoption fees, which is their income, not the county's income.

Ms. Voelz stated that it is imperative that an organization offering adoption services ensures that the animal has a rabies vaccine, a license, and is spayed or neutered. The proposed contract indicates that the new owner will have 30 days to get a rabies vaccine for their animal; this would mean that animals are adopted out with a rabies vaccine, a license, or spay/neuter. There is no assurance that those things will be done. Other rescues and shelters include those services with adoption fees; she would like to see that animals have those services before leaving the shelter.

#### Animal Shelter Public Comment

Susan Gerry, 402 Sunset, La Grande, read a prepared statement providing suggestions on appropriate financial controls. She believes that an audit and submitted documents will assist BMHA and the commissioners in answering questions from the public, prior to money being released to BMHA.

#### Animal Shelter Public Comment

Jodi Lambert, 2710 N. Ash, La Grande, asked if the City of La Grande had been paying \$10,000 to BMHA every year. Commissioner McClure stated that the City of La Grande suspended payments several years ago; Mrs. Burgess stated that the City's last payment was \$9,000 several years ago.

Ms. Lambert asked if the Sheriff's Department would take over dog licensing; Commissioner McClure stated that was correct. Ms. Lambert asked if some of the licensing fees would go to shelter; Commissioner McClure stated that all of the licensing fees would be passed on to BMHA. Ms. Lambert

stated that BMHA had licensing responsibility but they didn't do it to bring in revenue for the shelter; now the Sheriff's Department will do all the work, but the shelter will get the revenue.

Ms. Lambert asked who would monitor BMHA. Commissioner Howard stated that the Sheriff's Department will monitor licensing. Ms. Lambert stated that the contract indicates that someone will monitor BMHA to ensure that it is being operated as it should be. She stated that there have been concerns about BMHA for years and there are many questions brought by the community that have not been answered. She likes that the contract is limited to six months, but hopes that the commission will get to see documentation from BMHA. She knows that the community needs to be able to trust BMHA to take care of animals, but the trust is not there right now. BMHA gets revenue from the Barkin Basement store, and now they will also get funding from the county. John Brinlee has been there several years and the shelter has gone in the toilet since he started. There is a problem and she just wants it figured out.

Commissioner McClure stated that part of the problem was going from a high-kill shelter to a no-kill shelter, which costs a lot more money. That decision was made by an independent board that represents BMHA, not the county. The decision to make that change wasn't synchronized with the county, causing some problems. Pendleton and Walla Walla have high-save shelters and it costs more to do business that way. If the community wants to go back to the way it used to be done, then the county can look at hiring a veterinarian that would hold the animal for five days and then euthanize them, but he doesn't think that would reflect the county's values. The county is trying to shift the responsibility to pet owners and fees that the owner pays will go towards taking care of the animal. It is legitimate for the owner to pay for the cost of pet ownership. The contract is limited to six months and BMHA has said that they understand what their problems are and will communicate better with the public. He has faith that they will do those things, but the county will look at it at the end of six months.

Ms. Lambert stated that she has paid \$11,000 this year to take in all the animals that BMHA has turned away but is not begging the county for money. Commissioner Howard thanked her and added that the community values what she represents. He would like to talk with her in about a month and to assess the situation.

#### Animal Shelter Public Comment

Emily Parker, 1204 O Avenue, La Grande, stated that she was very concerned with the proposed contract. It spells out how the county and shelter will go about things, but what about the community members themselves? It says that BMHA will take every animal brought to them by animal control, but what about community members seeking help that BMHA turns away constantly? At the last meeting she attended, BMHA said they would improve their hours to allow the community to be more active in the shelter, but there is no hour change indicated. She is concerned about BMHA's management plan regarding visitation and adoption process. She has tried to call BMHA, but doesn't get an answer or a call back. Their volunteer program is not easy to get into because they try to do it as a group instead of taking volunteers as they come in. Their costs would be less if they allowed more volunteers. There are people in this community that are willing to help the shelter and animals, but not when they lack transparency; it is being fixed on paper but not in the community. They are going about all the legal processes they need to, but when it leaves this room it's not the same. That is the main concern for the community right now and BMHA is not working for the money that they are being handed. They have the Barkin Basement store, the ability to hold fundraisers and donation events, but they are not being worked as hard as they could for a non-profit that wants to do a no-kill shelter. That is a big concern for

the community. If they really want to make the changes, they would show the community that they are making a difference and not just have it on paper.

Animal Shelter Public Comment

Donna Brownlee, 2012 Y Avenue, BMHA volunteer and Board Member, stated that it is untrue that they do not return calls. She makes those calls and keeps a log of them with notes. There are times that she leaves a message but does not get a return call. They have stacks of volunteer applications, but only a small handful of people that actually show up. Their hours have been cut due to lack of funding; they reduced to three days a week to just keep their doors open. They have tried some fundraisers in the past, but they were not very successful and are now rethinking fundraising events. They have had offers for assistance with grant-writing, but those volunteers didn't follow through. She is not going to attempt to write a grant and mess it up; when grants are sent out that are not complete or done correctly, it makes them look bad. They are hoping to find a person who could help them write grants.

Commissioner Howard stated that he would be happy to help BMHA write grants. When there is an agreement and progress has been made, he believes things can change in three to five months. People sacrifice the necessary for waiting for the perfect situation; he doesn't know that they will get to a perfect situation in the next six months. He is excited that there is a more positive conversation going. He encouraged BMHA to call him for help with grant writing.

Animal Shelter Public Comment

John Rinehart, 2012 Y Avenue, President of BMHA, stated that they have discussed with Commissioner McClure planned changes they will make once funding is available. The proposed contract includes a change in hours that will help the public interact with the shelter, with the exception of Wednesdays when other shelter business is handled. They are planning to hire a professional grant writer; they have seen how it can work and be advantageous. They have had discussions with a donor who is considering providing funds that could be used as a matching donation to provide spay/neuter assistance for low income individuals. They have contacted veterinarians in the area, but they have been less than willing to discuss costs up front, which is understandable considering varying sizes of animals. In regards to daily fees that BMHA charged the county, the amount is required by ORS. There have been questions about being a high-save facility; by necessity, BMHA has to be selective in accepting animals. Five years ago the state law changed; euthanizations must now be done by a licensed vet or with a licensed euthanization technician present. BMHA was unable to incur the cost of hiring a vet or training a professional to provide that service. As the BMHA Board membership changed, the decision to become a high-save facility was made based on state law. There were questions about fiscal oversight; BMHA provides fiscal oversight by tax records and internal records showing donations, income and expenses. He assumes that it will be discussed with the commission and made available to them. One of the strongest arguments showing that they are doing things appropriately is that they work with the Sheriff's Department; it is unlikely that the Sheriff would continue to work with them if they were doing something unlawful. They try to follow the law precisely and this contract is part of that; there is no try about it, they do follow the law. There have been some recent discussions about the feral cat problem in this county and some talks about capture/neuter/release programs. In his research, he found that those programs do not work unless there is public buy-in. One paper published in the Journal of the American Veterinarian Medical Association in 2013 noted that if you could capture, neuter and release 60% to 90% of feral animals and have at least 58% public buy-in, then it could work but in most cases it doesn't. That is an issue for a different piece of the puzzle, not an issue for the contract. He wants people to look at the proposed contract and see that the policies and procedures they have been using are according to state law and provide for the best interest of the animal and the public. They have proposed changes

based on receiving funding from the county that address many concerns that people have had. He knows that many people don't like that they can't see the animals in kennels, but it was the insurance company that said it was a really bad idea and they should not do that. However, they have said that they will do it if they have staff that can go with the individual to look at the animals. They invite the commissioners to come out to see what they are doing and how they are doing it. They are trying to improve transparency. It is still a good idea to try this contract for six months and then determine if it's working for both parties and the public.

Commissioner Howard noted that Mr. Rhinehart mentioned that some of BMHA's in-house records could perhaps be made available; he thought it was interesting that he mentioned "perhaps". Mr. Rhinehart stated that as part of this agreement, they would allow the county to see records. Commissioner Davidson asked if BMHA would release the records to the general public. Mr. Rhinehart stated that BMHA releases those records as required by law through the CT12 and Federal tax return; those documents are currently on the website. Commissioner McClure stated that the county adopted a resolution indicating that all nonprofits it works with must provide those documents to the county; every year they must show that they are meeting State and Federal requirements. Commissioner Howard stated that he was specifically referencing Mr. Rhinehart's "perhaps make available" comment and his mention of in-house records, not a minimum reporting standard. The closer to a CPA evaluation from the county's internal staff, the more Commissioner Howard would appreciate it. Mr. Rhinehart stated that the more transparency BMHA has, the more trust the public will have in what they are doing.

#### Animal Shelter Public Comment

Renee Blakely, 2303 May Lane, La Grande, stated that she has taken in 39 foster cats from Jodi Lambert since last August. She started out in a small shed, but now has 17 cats and has moved the operations to a shop; she is up every three hours to keep the cats warm. Her concern is that BMHA gets the funding, but Ms. Lambert pays for litter, food, and vet bills out of her pocket. She and Ms. Lambert are spending a lot of time and money to do this. People have complaints about how the shelter is run and they won't take in strays. If BMHA is getting county funding, then they need to step up and help more. There were 25 feral cats behind Grocery Outlet; she and Jodi trapped six of them and then Ms. Lambert paid for them to be spayed/neutered. No one helps her with funding, but some people have donated some items. There was a lady in Union who passed away, leaving behind four cats and dogs; the shelter took the dogs but would not take the cats. Those cats sat in the house for five months until she finally took them in; one was too wild and she paid to have it put down. She thinks that if BMHA is getting county funds, then why can't they help with other situations? The public is trying to help relieve BMHA of caring for all the animals because they won't take them all in. She has many people asking her to take in cats because BMHA won't do it. She and Ms. Lambert pay out of their own pockets to donate food to people feeding feral cats. She heard about a cat adoption from BMHA where it was so sick that it had to be taken to the vet; it had the worst case of ringworm they had ever seen and it gave the family's other animals ringworm. It cost the family money to adopt the sick cat and to treat all their animals. When she adopts out her foster cats, she treats them with antibiotics so they are well before adoption. BMHA needs to step up. She deals with a lot of people from the public and is hearing nothing but complaints about BMHA because they don't want to help the public. People will not donate time to BMHA because no one likes the way it is being run and they don't think BMHA is doing anything. Ms. Lambert goes above and beyond and spends all of the money out of her own pocket. Why can't BMHA kick back money to Ms. Lambert and other people who take in these pets?

Animal Shelter Public Comment

Mary McCracken, 63036 Buchanan Lane, La Grande, thanked BMHA for giving reasons why things have changed. She left the previous BMHA Board because she thought they were too eager to put animals down. She thinks animals should be put down more than they are now when they are not adoptable, in particular feral cats. She has visited Ms. Blakely's place and thinks she is doing an amazing job with the kittens. It is good to have a healthy kitten and ringworm is not fun. One would think that you would get a healthy animal from the shelter, but her vet says that doesn't always happen and you can't tell unless you use ultraviolet light. She is happy that BMHA is communicating more with the county and working with people in the community. She thinks BMHA needs to take in more animals because turning them away doesn't do any animal any good; if they can't take them in, then put them down.

**FINAL DECISION: Livestock District #1 Annexation/Boundaries**

Scott Hartell, Planning Director, stated that the commission previously closed the public hearing to new testimony on the petition to annex lands in the Union County Livestock District #1. At the December 7 meeting, the commission made a tentative decision and instructed him to develop findings to support their motion. Today there is an expectation for the commission to make a final decision on this petition. However, his previous questions to Wyatt Baum, the county's legal counsel, were specifically about ORS 607.013; this did not provide enough detail on the entire petition or the process of the petition. Now that Mr. Baum has been provided full information about the petition, his opinion on the commission's decision making authority dealing specifically with this petition has changed. Since the public hearing is closed and new information is available that is relevant to the commission's decision, Mr. Hartell suggested that the commission take no further action at this time and allow staff to re-notice the petition. This would effectively restart the review process to allow for new testimony and a chance for the public to be involved through a public hearing process. Commissioner Howard asked if there was a time requirement since a preliminary decision had been made; Mr. Hartell stated that there was not a time requirement.

Commissioner McClure concurred with Mr. Hartell's suggestion. The commission made a decision based on information they were given and that information has changed. The public testified and they need to have the opportunity to hear what the commission now knows so they can comment on it. He would be very uncomfortable changing a tentative decision without letting the public know after a hearing process; there is a different set of facts that the commission is considering. It is reasonable to ask Mr. Hartell to go forward with his suggestion.

Commissioner Davidson concurred that the commission needs to restart the process because the legal opinion has changed. The neighbors and cattlemen that use that area need to know about it and have the opportunity to provide testimony and address the commission. It appears that the commission may not have the discretion they thought they had. To reverse a decision and reach a conclusion opposite of the findings of fact that were developed would be a breach of trust with the community at large. There isn't a timeline on this; they need to do the process correctly and provide for public input.

Commissioner Howard stated that he is concerned with the timeframe; on good faith the original petition was filed and proceeded to be considered in a fact hearing. He is concerned about it causing any detriment to the original petitioner. Commissioner Howard had concerns about the shape of the petition itself in that it may have been defective and whether correct notice was given to every potentially affected land owner allowing an opportunity to be heard.

Wyatt Baum, Union County legal counsel, stated that he had not seen the petition and from a legal standpoint he was asked specifically about ORS 607.013(3). The opinion he previously provided was based on the idea of a creation of a livestock district, which is what that statute refers to, not the expansion of a boundary in an existing district. He stands behind his new opinion on the expansion of a boundary in an existing district.

Commissioner Howard asked what the best legal status would be; do they withdraw, can they terminate by inaction or do they need to take a specific action to withdraw? Mr. Baum stated that if someone had previously moved approval of the tentative decision, then a motion would need to be made to withdraw the previous motion.

**Commissioner McClure moved to rescind the previous action of a tentative decision regarding the annexation petition to Union County Livestock District #1 and to direct staff to provide notice of a new hearing. Commissioner Davidson seconded. Motion carried unanimously.**

#### **Elected Official, Department Head & Employee Comments**

Commissioner McClure stated that he had a visit from Ken Wisdom, a constituent, who would like the county to consider an ordinance regarding the preservation of the Second Amendment. This item could be scheduled for a later meeting. The county took action as a resolution in 2013, but the request is to have an ordinance addressing it. The county had a legal opinion at the time to have a resolution, not an ordinance. Commissioner Howard thought it would be great to hear from Mr. Wisdom at a future meeting.

#### **Consent Agenda**

**Commissioner Davidson moved approval of the Consent Agenda, which included Claims Journals for November 23 and 30; December 1, 7, 8, 14, and 15. Commissioner McClure seconded. Motion carried unanimously.**

#### **Animal Shelter Agreement**

Shelley Burgess, Administrative Officer, stated that this proposed contract was the result of negotiations that she and Commissioner McClure had with BMHA regarding sheltering dogs impounded under the county's dog control ordinance. The contract was tentatively agreed to by BMHA and it has been reviewed by the county's legal counsel. It would take effect January 1, 2017 and run through June 30, 2017, with a provision for a five-year renewal if the commission is satisfied with BMHA's performance the first six months. If that is not the case, the commission could negotiate a new contract or seek new proposals. This agreement is different from those in the past because it incorporates a Management and Operations Plan (MOP). The intent is to address some items outside of the scope of a contract for services; it relates more with how BMHA would operate and provide some of the services. This would provide more information to support the contract so that the services to be provided would be clear. The contract requires that BMHA accept all dogs that are impounded by Animal Control officers at no additional charge to the county. The county will make quarterly payments with a maximum of \$50,000 per year; this contract would allow for two quarterly payments of \$12,500. There is a provision that indicates that overages collected by the county will be sent to BMHA; that will be reviewed on a fiscal year basis. The overage would come from very specific line items in the Animal Control budget, including generation of revenue from dog licensing, fees and fines from dog citations, and any donations received for animal sheltering services. It is important to note that the City of La Grande, the City of Elgin, and the City of Union currently provide funding under a contract for animal control services; those are separate revenues and would not apply to the overage because they are not for sheltering services.

In the proposed contract, the county would require proof of compliance with nonprofit statutes by April 1 of each year and it gives the county the ability to audit BMHA annually. It requires BMHA to report animals they receive so that the county will have an accounting of what it is receiving for the money it is spending. The MOP is a product of BMHA and includes specific requests from the county. It also identifies hours of operation and after-hours drop off procedures for Animal Control officers.

Commissioner McClure stated that the commission realized that BMHA is a private nonprofit separate from the county; that relationship has to be honored and that is what this contract does. The MOP can be changed without changing the contract. He felt that the commission needed to list reasonable expectations that the community could expect at BMHA. The feral cat problems were not addressed in the contract and the commission will have to take it up in the future. Getting to this point was a long process; BMHA's expectations were as high as \$150,000 and the county couldn't do that. The county tried to establish reasonable limits and address the funding source that came from pet owners. He supports the proposed contract. **Commissioner McClure moved approval of the Animal Shelter Agreement with Blue Mountain Humane Association and the Management and Operational Plan Attachment. Commissioner Davidson seconded.**

Commissioner Howard asked if the county's legal counsel was comfortable with having the (MOP) integrated in the contract, including the fact that a breach of the MOP would also be a breach of the primary contract. Mrs. Burgess stated that legal counsel was comfortable with it and was very pleased that the county had done that to allow some accountability to the MOP. BMHA cannot change the MOP without the county's concurrence.

Commissioner Howard asked when the county would begin issuing licenses. Mrs. Burgess stated that although the new software may not be online, the Sheriff's Department will begin issuing licenses January 1, 2017 and begin publicizing the program. Commissioner McClure stated that the county wants to have new technology that would allow Animal Control officers to issue licenses in the field.

Commissioner Howard stated that a society's compassion is measured by how well it takes care of its disabled and its animals. He is really proud of the steps forward.

Commissioner Davidson stated that he was pleased that they had reached a conclusion of this impasse.

**Roll Call on Animal Shelter Agreement: Commissioner Davidson, yes. Commissioner McClure, yes. Commissioner Howard, yes. Motion carried unanimously.**

### **Administrative Matters**

#### **Blue Mt. Larch Orchard Consent to Assignment**

Mrs. Burgess stated that in 2009, the county agreed to participate in the Blue Mountains Cooperative Western Larch Seed Orchard. The current request is to replace one of the participants; Hancock Forest Management has transferred ownership of part of their holdings from SFG to Green Diamond. This assignment would replace them under the original agreement. **Commissioner Davidson moved approval. Commissioner McClure seconded. Motion carried unanimously.**

Commissioner Howard suggested that court orders be read by title only and consolidate motions to approve; there was no objection.

Court Order 2016-37, Appointment to the Union County Special Transportation Fund Advisory Committee

Mrs. Burgess read by title and named appointees: Cheryl Jarvis-Smith and Mike Boquist, with terms expiring December 31, 2020.

Court Order 2016-43, Appointment to the Union County Wolf Depredation Compensation Committee

Mrs. Burgess read by title and named appointees: Rob Beck and Gene Hardy, with terms expiring December 31, 2019.

Court Order 2016-44, Appointment to the Union County MERA Motorized Advisory Committee

Mrs. Burgess read by title and named appointees: Bill Gamble, Leonard Erickson, Ian Caldwell, Mark Barber, and Katie Martin, with terms expiring December 31, 2019.

Court Order 2016-45, Appointment to the Union County MERA Non-Motorized Advisory Committee

Mrs. Burgess read by title and named appointees: Doug Hopper, Leonard Erickson, Ian Caldwell, Lance Colburn, Robert Morgan, Scott Wilson, and Katie Martin, with terms expiring December 31, 2019.

Court Order 2016-46, Appointment to the Grande Ronde Model Watershed Board of Directors

Mrs. Burgess read by title and named appointees: Nick Myatt, Larry Cribbs, Allen Childs, and Jed Hassinger, with terms expiring November 30, 2018.

Court Order 2016-47, Appointment to the Union County Planning Commission

Mrs. Burgess read by title and named appointees: Melanie Trump van Holst, expiring December 31, 2020; Mace Cadwell, expiring December 31, 2020; Silas Kelty, expiring December 31, 2018.

Court Order 2016-48, Appointment to the Union County Economic Development Corporation Board of Directors

Mrs. Burgess read by title and named appointees: John Lackey, expiring December 31, 2019; Tim Seydel, expiring December 31, 2020.

Court Order 2016-49, Appointment to the 4-H & Extension District Advisory Committee

Mrs. Burgess read by title and named appointees: Patricia Bingaman, John Cuthbert, Kelley Gross, Bob Messinger, Ray Moreno, Don Starr, and Beth Upshaw, with terms expiring December 31, 2019.

Court Order 2016-50, Appointment to the 4-H & Extension District Budget Committee

Mrs. Burgess read by title and named appointees: Bob Messinger, Don Sands, and Julie Hickerson, with terms expiring December 31, 2019.

**Commissioner Davidson moved approval of Court Orders 2016-37, 2016-43, 2016-44, 2016-45, 2016-46, 2016-47, 2016-48, 2016-49, and 2016-50. Commissioner McClure seconded. Motion carried unanimously.**

Memorandum of Agreement – Oregon Building Codes Division

Mrs. Burgess stated that this MOA comes from Brian Don, Building Official; it allows the operation of the Building Inspection program through Union County. There are no changes since the 2015 MOA and the county does not give up its authority or jurisdiction. Commissioner McClure stated that it recognizes that the county contracts with the City of La Grande but still retains authority. **Commissioner McClure moved approval. Commissioner Davidson seconded. Motion carried unanimously.**

Solid Waste District Disposal Contract

Mrs. Burgess stated that the commissioners would be acting in their capacity as the Solid Waste District Board of Directors. A Request for Proposal was issued for the disposal of solid waste collected in Union County; proposals are as follows:

Business	Per/Ton Disposal Fee	Distance in Miles	Cost of Transport Per Ton	Total Cost/Ton
Baker Sanitary Services, Inc.	\$24.00	47.5	\$10.34	\$34.34
Finley Buttes Landfill	\$23.68	99	\$21.78	\$45.46
Payette County Landfill	\$20.00	119	\$26.18	\$46.18
Waste Management Disposal	\$27.32	147	\$32.34	\$59.66

Mrs. Burgess stated she reviewed the proposals with Darin Larvik, franchise operator for collection, who agreed with the recommendation to award a new contract to Baker Sanitary Services, Inc. **Commissioner McClure moved approval of a new Solid Waste District Disposal Contract with Baker Sanitary Services, Inc. in the amount of \$34.34 per ton.**

Commissioner Davidson noted that the total cost was \$34.34, but they are paying for the transport cost separately. Mrs. Burgess indicated that was correct and the commission would need to accept the per ton amount. **Commissioner McClure amended his motion to reflect the per ton cost of \$24.00. Commissioner Davidson seconded.**

**Roll Call: Commissioner Davidson, yes. Commissioner McClure, yes. Commissioner Howard, yes. Motion carried unanimously.**

Policy Regarding Reporting Improper or Unlawful Conduct

Mrs. Burgess presented a Whistleblower Protection Policy for the Commission’s consideration under ORS 659A.200 to 659A.224. It is in regards to improper or unlawful conduct and no retaliation. This is a proposal that is based on a model from City County Insurance Services (CIS), which provides the county’s liability coverage. The reason for this is that House Bill 4067, adopted by Oregon Legislature, goes into effect January 1, 2017. Union County has always had protection for employees who want to report improper or unlawful conduct. HB4067 requires that the county have a specific policy adopted before January 1, 2017 and to provide it to employees. If approved, it would be integrated into the county’s personnel policies. **Commissioner McClure moved approval. Commissioner Davidson seconded.**

Commissioner Howard stated that the document indicates that an employee is not entitled to protections under this policy if Union County determines that the report was known to be false. In regards to that statement, he questioned if this language was determined by CIS and asked if it could be replaced while still meeting the requirements of HB4067. Mrs. Burgess stated that it was created by CIS; they felt it was important that the policy include the language so that employees would know that they would not be protected under HB4067 if they did something improper or knowingly make a false report. Commissioner Howard thought it was a knowing and reckless standard, which is slightly different. After further reading, Commissioner Howard stated that the reckless standard is employed in the policy; it is known to be false and with reckless disregard, which is a higher standard. Commissioner Davidson noted that it says ‘or’ not ‘and.’ Commissioner Howard agreed that Commissioner Davidson was correct in that the standard does not require both knowing and reckless.

Commissioner Howard had an issue with the statement that 'an employee is not entitled to protections under this policy if Union County determines...' and asked how that determination is made by the county. Mrs. Burgess explained that it lists Union County because any disciplinary action taken against an employee is done by the county; the county would have to have information through an investigation that would show a false report. Any discipline resulting from that situation would be done by the county. This is a county policy showing how it will abide by the law and treat employees. Commissioner McClure stated that employees are entitled to due process. Mrs. Burgess stated that the county would have to investigate. Commissioner Howard questioned if it then couldn't be an ad hoc decision by one person. Mrs. Burgess stated that if an employee were to be disciplined for this type of thing, the county would inform the employee of allegations based on evidence and/or testimony, and then allow the employee to refute the information. The point of the policy is to make sure it is comfortable for employees to report, but it also has to include something so that employees are not making false or reckless allegations without penalty.

Commissioner Howard stated that his concern was that the county wouldn't want to have someone at the county make a decision based upon being in Union County on an ad hoc basis if this person doesn't get the protection of the Whistleblower policy; it would gut the intent of having the policy by not being sure that they are entitled to full due process. He wanted to go on the record saying that if somebody is going to be determined, and they have to be specifically determined to have violated this provision of the policy, then that is something that is done with full due process, not just by one person. He asked if the Board of Commissioners could make that determination and then stated that it would have to be a determination in writing. Mrs. Burgess stated that those types of things are not brought to the commission unless it is on appeal because that is how the county's due process is set up. When an employee is being disciplined for something, it happens with their supervisor and they engage Human Resources for assistance in the process. Commissioner Howard thought this was a little different because this is just for whistleblowing, which calls for a separate determination based on whistleblower protections if that is what they are claiming.

Mrs. Burgess stated that there would be a determination only if the county feels that the employee has submitted a false or reckless complaint. If a complaint is filed and there is no question about whether this policy was followed, then that employee would receive whistleblower protection and there would be no determination of whether or not it would be provided to the employee. The only time it would be in question is if there was a question by the county that the claim was false or reckless disregard for truth.

Commissioner Howard believes that the employee has to claim whistleblower status under statute to receive protection. Mrs. Burgess stated that she didn't think the employee would have to ask for that. Commissioner McClure asked if those standards were provided in the statute and if the proposed policy included it. Commissioner Howard stated that the policy referenced it in the title. Commissioner McClure asked if that was what the statute said or if the commission was considering something that CIS put in the policy. Mrs. Burgess stated that the attorneys wrote the policy; when comparing the policy and HB4067, the policy language is written in a way that is more user friendly. She can resubmit the policy to the attorneys, but if the county does not have an adopted policy by January 1 and it is challenged, then the county would be in violation for not having a policy.

Commissioner Howard stated that he was more comfortable with it on the basis of this discussion because of the assurance of due process, but the commission can revisit the issue regarding whether or not the specific claims under Whistleblower have to be claimed in a complaint by an employee. He is comfortable but would like to revisit it. He asked if the county's legal counsel had looked at the policy.

Mrs. Burgess stated that the county's legal counsel is not sought for personnel issues because CIS has labor attorneys that provide that service. She added that if the county is sued for improper action and follow CIS's recommendations then the \$10,000 deductible is waived.

Commissioner McClure stated that the commission needed to adopt the policy today so that the county would be in compliance January 1, but could make adjustments later.

**Roll Call: Commissioner Davidson, yes. Commissioner McClure, yes. Commissioner Howard, yes. Motion carried unanimously.**

#### B2H Listening Session Discussion

Commissioner Howard did not know if the commission would recess for any action later in the day at the B2H Listening Session. Commissioner McClure stated that the meeting could be recessed now and if there was any formal action needed, it could be taken at the later meeting. Commissioner Davidson stated that he had an appointment out of town later in the day and would not be back in time for the B2H Listening Session.

Mrs. Burgess stated that the commission wanted the evening session to be in the format of a listening session instead of a public hearing. Typically a recording is made for a work session, but minutes are not transcribed. Her thought was that the current meeting would be concluded; notice was published indicating that the commission may reconvene in a meeting after the listening session if they felt they needed to take action. Commissioner Howard stated that the meeting could be adjourned until the next regular commission meeting in January, subject to call of the chair this evening to reconvene for the purpose of limited recording of a B2H project presentation.

#### Commissioner Davidson – Term Conclusion

Commissioner McClure thanked Commissioner Davidson for his efforts over the last eight years. He has enjoyed working with him. He understands the political process and will follow that. He knows that Commissioner Davidson gave it his best honest effort and worked very hard at that. He truly appreciates all his efforts and wished Commissioner Davidson success in whatever endeavor he takes; it was a pleasure working with him. Commissioner Davidson felt they had a good run, accomplished some significant projects and is very proud of the tenure of his service.

#### Next Meeting and Location

The next meeting is scheduled to take place on January 4, 2017 at 9:00 a.m. in the Joseph Annex building.

#### Adjournment

At 10:53 a.m. Commissioner Howard adjourned the meeting, subject to the call of the Chair.

#### Call Back to Order

Commissioner Howard called the meeting back to order at approximately 7:30 p.m. following a listening session for the purposes of commission action and discussion. Commissioner McClure and Commissioner Howard were present; Commissioner Davidson was absent. Commissioner Howard requested to waive the rule so that he may make a motion or second from the Chair; there were no objections.

**Commissioner Howard made a motion to adopt a letter opposing the limitation of 30 days for protest and to request an extension of time to make further comments based upon the 40CFR part 1506.10(d) protocol process on the basis that the 30 day protest period would be insufficient and to postmark it before 1:00 p.m. Friday. Commissioner McClure seconded.**

Commissioner McClure stated that he was left with the impression that this was the process that was required of cooperators by BLM and that the commission had no discretion in this. He doesn't think it's unreasonable to ask for more input. He believes public input is important and adequate time should be provided for it. The county has been doing this for ten years, what's another 60 days? Commissioner Howard agreed that a 60 day reference would be perfectly reasonable. **Roll call: Commissioner McClure, yes. Commissioner Howard, yes. Motion carried.**

**Commissioner Howard made a motion to submit a separate letter before 1:00 p.m. Friday that would address the following concerns to the extent that they are able to confidently address them:**

- 1. 70% private land being potentially impacted, including in particular the Visual Quality Objectives that are impacted by this proposed development**
- 2. The East side screens which are identified in the BLM forest practices or management areas**
- 3. The riparian areas which may be affected by these decisions.**

Commissioner Howard stated that he was leaving the door open for what the form of the letter would be, which could mean that they may only address one, two, or all three issues. He knows that is a convoluted motion but it comes down to addressing three principal issues of concern in the protest period.

**Commissioner McClure seconded.**

**Commissioner McClure reserved the right to make a decision to sign the letter once its content was made available to him. He would not sign a blank letter without knowing whether or not he agreed with the arguments. Commissioner Howard agreed that was reasonable.**

Commissioner McClure felt it was reasonable to do some investigation to determine how to address concerns in a meaningful way. As cooperators, the county has standing to address this.

**Roll Call: Commissioner McClure, yes. Commissioner Howard, yes. Motion carried.**

Commissioner Howard adjourned the meeting.

Respectfully Submitted,

Lorcinda Johnston  
Sr. Dept. Specialist II