

10/27/11

**Legal Meeting; Tuesday, September 20, 2011 – 9:30 a.m. BCC Conference Room**

Attending: Commissioners Sandi Cassanelli, Simon Hare and Don Reedy; Steve Rich, Leah Harper, and Pat Ellison, Legal Counsel; Rosemary Padgett, CFO; Chet Bolen, Real Property Coordinator; Diane Hoover, Public Health Director; Brad Carlson, Environmental Health; Kim Kashuba, Recorder; media and other interested persons.

Chair Cassanelli called the meeting to order at 9:31 a.m.

**1) LEGISLATIVE/ADMINISTRATIVE FUNCTIONS**

**a) County Property at 1382 Pansy Lane: Proposed renovation**

Chet Bolen presented two options for this property, demolish the home or renovate it in preparation for renting. Chet reported that he pursued a quote for renovation and learned it will cost an average of \$20K. Commissioner Cassanelli advocated renovation. Commissioner Reedy advised he had suggested utilizing it as a larger space for the Veterans Administration Department, however Lisa Shipley, Veterans Service Specialist, is not comfortable with the lack of security there. Commissioner Hare advocated renovation to get the property to rent by the fall. Rosemary Padgett reminded the Board that the intent of the Property Reserve Fund was to set up and maintain County infrastructure. When money from that fund is used to clean up a property, the County recovers that money through the sale of the property. She cautioned the Board about going into the residential landlord business, and recommended demolition. Chet advised that recouping the renovation costs would take about four years through rental payments. Commissioner Hare noted this property was potentially sitting within a right-of-way for future development (ODOT's "Plan A"). He suggested for the standard of the neighborhood it should be cleaned up or boarded up, with possible demolition in 5-10 years. Chet advised he received a quote of \$4K to demolish, plus environmental clean-up costs.

Public comment regarding questions about asbestos abatement was heard from:

Ron Brown

Commissioner Cassanelli suggested keeping the building for storage for the Fairgrounds.

Commissioner Hare advocated renovation to get the property to rentable standards, getting formal bids to do so, and using property reserve money with the understanding that rent payments are used to pay the fund back.

Rosemary Padgett advised that in that case, a request to utilize Property Reserve Funds would be brought before the Board.

Commissioner Hare made a motion to direct the Real Property Manager to obtain formal bids to renovate the property at 1382 Pansy Lane to bring it up to rentable standards, using money from the Property Reserve fund, seconded by Commissioner Reedy. Upon roll call vote, motion carried, 3-0; Commissioner Reedy – yes, Commissioner Hare – yes, and Commissioner Cassanelli – yes.

**b) Federal Land Use Planning Coordination**

Steve Rich stated he reviewed the draft letters provided by Commissioner Cassanelli and advised that the letters are policy statements of the Board of County Commissioners. There is no need for legal to recommend or deny. Commissioner Hare advised he had not had an opportunity to review the letters due to his absence last week. Commissioner Cassanelli stated she wanted to submit a resolution to the Federal Government stating the County's desire for coordination. Steve Rich advised that letters stating such are sent every year by the Board. Commissioner Cassanelli commented that the annual letters use the term "cooperation"; they need to use the term "coordination." She advocated putting a resolution and her revised letters on the next agenda. Steve advised that his research indicated nothing in state or federal law that *required* coordination; that the Board can state their desire for it, but there is no case law that supports their having any more influence for having done so. Commissioner Cassanelli said it was in FLPMA 1976. Steve's research into one matter cited by Fred Kelly Grant involving a proposed transcontinental highway from Mexico to Canada, indicated that it was political pressure, not a legal argument or any statement or demand to coordinate, which determined the decision not to proceed with the highway. Commissioner Cassanelli said there were three cases cited by Fred Kelly Grant that demonstrated the influence of a statement to coordinate. Steve Rich asked to see those cases, as he did not find them.

Commissioner Hare wanted time to review the letters before deciding to sign and agree to send the letters out, especially the one that states the County wants to pull back from the collective influence of the Association of O&C Counties.

Public comment regarding coordination and the proposed letters was heard from:

Barbara Gonzales

Rick Kelley

**2) ISSUES OF CONCERN REGARDING GRANT APPLICATIONS/AWARDS**

None reported.

**3) DISCLOSURES/EXPLANATIONS RE: PROPRIETARY AND CONTRACTUAL OBLIGATIONS**

**a) Draft RFP for cablecasting services**

*These are meeting minutes only. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents of the proceeding, please refer to the audio recording.*

Leah Harper discussed the revised RFP draft, asked the Board if there were any questions, and requested clarification about the County contact for questions and responses to the RFP. It was determined that Leah will be the County contact. Commissioner Reedy advised he met with Joe Brett of RVTV and learned that RVTV will soon have the ability to place replays on the internet. Commissioner Cassanelli said the CAP's and County are already doing that from the Anne Basker. Commissioner Reedy asked for confirmation that the parameters of the RFP did not preclude RVTV from responding with that offered service. Leah advised that the RFP does not preclude any service provider. Commissioner Hare suggested Commissioner Cassanelli may have a conflict of interest regarding this matter due to her being both a Commissioner and a Community Access Provider. Commissioner Cassanelli said there was no conflict of interest because there were no dollars involved. Legal Counsel will finalize the RFP and send it out.

Public comment regarding the RFP, video replays and RVTV was heard from:  
Dale Matthews

**b) Amendment No. 2 to Contract for Services (cablecasting) with SOU: Extends contract through December 31, 2011**

Leah Harper advised she sent the proposed Amendment to Southern Oregon University, but has not received it back yet. Commissioner Cassanelli stated she has concerns with the current contract with SOU and outlined those concerns. Commissioner Reedy stated the proposed amendment is only for a three month extension.

Jim Williams, Grants Pass City Council, and David Reeves, City of Grants Pass, advised that the City is working as fast as possible to separate their programming from channel 14 shared with the County, but that would not happen until at least mid-November. Commissioner Cassanelli responded that the City's work on the system is causing an interruption to the County's live stream. David advised that is technically impossible. Commissioner Cassanelli said it is possible, it has happened. He asked the Board to keep the status quo for the next 4-6 weeks to give the City the time it needs to acquire to its own channel. Commissioner Cassanelli stated that was unacceptable, to keep the status quo meant the Community Access Producers had to get up at midnight to switch over. She suggested allowing Community Access Producers to handle the City's replays. David responded that the City has a contract with RVTV to handle their replays and they did not want to breach that contract.

Public comment regarding replays and contracts with Charter and RVTV was heard from:  
Dale Matthews

Steve Rich clarified the difference between the Franchise Agreement with Charter and the Contract with RVTV. Commissioner Hare stated his position that if the Community Access Producers wanted to participate in the production of channel 14 they should do whatever is necessary in order for them to handle the County's playbacks until the City migrates, or let RVTV go back to handling the replays.

Public Comment regarding CAP's was heard from:  
Vivian Kirkpatrick

Public Comment regarding contracts and broadcasting was heard from:  
Rick Kelley  
Dale Matthews

**4) INTERGOVERNMENTAL RELATIONSHIPS**

None reported.

**5) ITEMS FROM COMMISSIONERS**

**a) Fire Protection Standards (Commissioner Hare)**

Commissioner Hare stated he was prompted to bring this issue before the Board due to complaints by constituents. He understood there is a draft of standards in existence and he would like to revive the issue and adopt minimum fire protection standards. Josephine County is only one of two counties that does not have a fire protection district; they should at least have minimum fire protection standards. Commissioner Reedy stated this was an issue discussed years ago, and it is his concern that county residents have adequate fire protection. He would like to investigate this further. Commissioner Cassanelli advised that it was a bad idea in 2007 and 2009 when it came before the last Boards of Commissioners, and it is a bad idea now. She has several issues with the current draft, including the creation of an advisory board with too much authority. Commissioner Hare suggested not discarding the entire document and idea just because one part or provision is not acceptable. Current service providers were discussed.

Public comment regarding County and City fire protection was heard from:  
Rick Kelly

Dale Matthews

**b) Definition of “participants” (public meetings) (Commissioner Cassanelli)**

Commissioner Cassanelli advised she requested this agenda item to revisit prior discussions regarding the content of minutes and whether the public was considered a participant in meetings. She asked Legal Counsel to provide a memorandum on the definition of “participants,” which Steve Rich confirmed she received. Commissioner Cassanelli summarized her understanding of the memorandum. Commissioner Hare asked whether the Board had not already made the decision that the public’s comments not be included in the minutes. Commissioner Reedy clarified that the decision was that public comments be listed by name and whether they were pro or con regarding agenda items. Verbiage was not to be included to avoid creating voluminous minutes and controversy regarding recorder interpretation. Commissioner Cassanelli advocated summarizing public comments. Steve Rich commented that it has been unpopular for him to state that it is not a requirement for the Board to allow public comment at their meetings. There is no definition in the statutes as to what “participant” is in this context. He stated that if the Board allows public participation at their meetings, the Attorney General’s manual gives examples as to how those comments should be recorded. Minutes can be very brief with no comments or quotes.

Public comment regarding public participation and minutes was heard from:

Barbara Gonzales  
Rick Kelley (submitted Exhibit A)  
Vivian Kirkpatrick  
Dale Matthews

Steve Rich clarified what the legal requirements were for the posting of Board agendas. Commissioner Reedy stated he welcomed public input but refuses to debate the public at meetings.

**c)** Commissioner Hare advised it was brought to his attention that Commissioner Cassanelli wanted to attend the Fairgrounds traffic signal meeting scheduled with Oregon Department of Transportation. He stated that the Board had already delegated him to attend the meeting and that this meeting was not a public meeting. Commissioner Cassanelli replied that the letter to ODOT the Board signed did not give Commissioner Hare that authority, and asked for a legal opinion regarding the Board staff polling the Commissioners. Steve Rich advised that staff does not violate public meeting law by clarifying prior Board decisions. Commissioner Reedy clarified what the staff asked. Commissioner Cassanelli directed staff to notice the meeting so she can attend. Commissioner Hare stated the Board had already decided this issue. Steve reminded the Board that an individual commissioner cannot direct staff to notice meetings.

**d)** Commissioner Cassanelli questioned the advertisement for Toyota on the Fairground’s page of the County’s website, stating that under County policy this is inappropriate. Rosemary stated Toyota is a corporate sponsor of the Fair, however Legal Counsel has been asked whether corporate sponsors can be on the County website. Legal Counsel will research that issue.

Public comment regarding sponsors and their links on County website was heard from:

Rick Kelley  
Dale Matthews

Chair Cassanelli called for Executive Session at 11:24 a.m.

**6) EXECUTIVE SESSION ITEMS**

**Possible Executive Session ORS 192.660(2)(a)(b)(c)(d)(e)(f)(g)(h)(i)(j)**  
**(NO DECISIONS CAN BE MADE DURING EXECUTIVE SESSION)**

**a) UPDATE/REPORT REGARDING PENDING OR THREATENED LITIGATION AND QUASI-JUDICIAL BCC FUNCTIONS**

- (1) Land Use Enforcement: Dick George Road, Cave Junction - ORS 192.660(2)(h)**
- (2) Solid Waste Nuisance Abatement: Fraim, Geraldine & Carol: 1060 Lakeshore Drive, Selma - ORS 192.660(2)(h)**

Executive Session adjourned at 12:04 p.m.

Public comment regarding RVTV was heard from:

Dale Matthews

Meeting adjourned at 12:15 p.m.