

**General Discussion: February 7, 2017**

**9:00 a.m. – BCC Conference Room**

Commissioners Simon G. Hare, Lily N. Morgan, Daniel E. DeYoung; Wendy Watkins, Recorder

Chair Simon G. Hare called the meeting to order at 9:00 a.m.

**1. Unprotected Areas in Josephine County (Shaw)**

Mike Shaw, Deputy State Fire Marshal, reviewed State of Oregon Letter (**Exhibit 1**) with the Board and asked to come up with a viable solution that meets the needs of the community. The Board agreed to revisit this at a later date.

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

Commissioner Hare suggested establishing an annual State of the County Address and the Board spoke in support of the Law Enforcement Levy that will be on the May 2017 Ballot.

The meeting adjourned at 10:29 a.m.

**EXHIBITS:**

**Exhibit 1 – State of Oregon Letter**

Exhibit 1  
General Discussion  
2/7/17



# Oregon

Kate Brown, Governor

## Department of State Police

Office of State Fire Marshal

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*Premier Public Safety Services*

### **Josephine County Board of County Commissioners & Josephine County Sheriff-**

The Oregon Office of the State Fire Marshal has recently undertaken the task of meeting with every fire department's Chief or Fire Marshal in the State of Oregon to discuss and implement what we are calling the "Plan of Cooperation". The purpose of this plan is to discuss what services our office provides to the fire departments and what the fire departments need to be doing to provide the proper fire prevention services within their political boundaries as required under statute. Essentially we are in the process of teaching fire departments how to fish rather than relying on one agency to handle everything for them. During this process we found that Josephine County has a large unprotected area with no legal fire department (as defined by ORS and OAR) providing services. We recognize that this is not an ideal situation especially when it comes to fire prevention services for such a large populated area with multiple commercial buildings and a growth in the processing industry that is taking place.

With our office currently addressing how to handle fire prevention services for the local fire departments throughout the state we figured it would be best to do the same with you since you are essentially the Authority Having Jurisdiction of this unprotected area. Below you will find the defined problem and some potential solutions to address the problem. We believe there needs to be a solution since our deputies cover such large geographical areas and can't be the end-all solution to everyone. Rest assured we are here to provide assistance to help get us through this problem and to essentially help you provide fire prevention services that are best for the community you were elected to serve.

#### **The Problem:**

Approximate 250 square mile area of 14,000 unprotected properties that are not serviced by a Fire Protection District or Municipality. Fire prevention and investigation services are essential services that should and in some cases are required to be provided by Oregon Statute by a fire district or municipality. Local officers and constables are assistants to the State Fire Marshal according to ORS 476.060. According to this statute assistants to the State Fire Marshal are subject to the duties and obligations imposed by law, and shall be subject to the direction of the State Fire Marshal in the execution of the provisions of ORS 476.070, 476.090, 476.150, 476.210 and 480.445

Private corporations acting as fire departments have no jurisdictional authority to investigate fires or enter a premise for the purpose of an investigation or inspection since they don't meet the definition of "Assistant" under OAR 837-039-003. All private corporations acting as fire departments in the

unprotected area are being requested to stop all fire investigations and fire code inspections due to the fact they do not have the legal authority to provide those services under the ORS and OAR. There is also the issue of data from the unprotected area getting reported to the State regarding fires and other calls. The current companies may be providing data to the state but at any point that could stop due to no requirement for them to provide the data. We hope they continue to provide the information, however with them not being recognized as legal fire agencies under the ORS they could at any time stop providing the much needed data to the State.

### **Fire Investigations**

The service of providing Fire Investigations is required to be immediately performed by the local fire department having jurisdictional authority under ORS 476.210. When no fire department exists this responsibility falls to the constable or in the case of the unprotected area it would be the Sheriff. The Office of the State Fire Marshal may direct or superintend the investigation when deemed necessary. The local private corporations are being requested to contact the Sheriff for notice of a fire investigation. The Office of the State Fire Marshal may provide assistance when requested, however it will be done based on our office's priority response levels.

### **Fire Code Inspections/Plans Review**

The service of providing Fire Code Maintenance Inspections and Plans Review is not noted as being required under statute however OAR 837-039-0080 does require local nonexempt fire jurisdictions to develop a written plan of their fire prevention program which includes inspection activities. Fire Code inspections and Plans Review are an essential service that should be provided to a community in order to provide adequate fire & life safety. Without inspection and plan review services, the occupancy of buildings could be done in an unsafe manner resulting in fire and the potential for large losses of life and property. Also the resulting effects on an ISO classification for the community would be at jeopardy without a proper inspection and plans review program. The Board of County Commissioners should have a written plan for their fire prevention program in the unprotected area under the OAR since they are the authority having jurisdiction for that area.

The Office of the State Fire Marshal will be providing fire code inspections on Educational Facilities, Licensed Child Care Centers and Licensed Adult Foster Care Centers in the unprotected area. Our office does not have the resources to commit personnel to performing inspections and plan reviews on all other occupancies due to the large geographical area our deputies already cover to provide assistance. Building Safety only has authority over new construction when it comes to Fire Code Inspections based on the ORS and AG opinions. Other things to consider is the inspection of multiple marijuana processing facilities opening up in the unprotected area of Josephine County and the potential unsafe conditions those could create without a proper inspection program in place.

The Office of the State Fire Marshal believes in providing solutions to problems and assisting governmental agencies to help resolve problems when it comes to fire prevention. We are prepared to offer training and guidance through this process to help ensure the community is getting the protection

it needs and deserves from the county. Below is a list of potential solutions to consider along with some pros and cons to each solution. There may be more pros and/or cons to mention, so this list is definitely not fully comprehensive and should be considered a starting point for conversation and a work in progress.

## **Potential Solutions to Consider (In order from least favorable to most favorable)**

### **Solution 1:**

**Investigations** – The Sheriff or a sworn member of the Sheriff's office receives the proper training on investigating the cause and origin of all fires that damage property in the unprotected area.

**Inspections/Plan Review** – The BCC develops a written fire prevention plan that outlines the limited inspections being performed only by the Office of the State Fire Marshal and no other inspections being done.

#### **Pros:**

- You meet the statutory obligations for investigations.
- You meet the statutory obligations for developing a written fire prevention plan.

#### **Cons:**

- The Sheriff's office is understaffed, underfunded and doesn't have the ability to meet these obligations currently required under the ORS.
- With only limited inspections being done, who is responsible and accountable for these other businesses being responsible and safe with no inspections/plan review being done.

### **Solution 2:**

**Investigations** – The Sheriff grants his statutory authority through a RFP to a properly trained entity that can perform fire investigations on behalf of the Sheriff and provide report to the Office of the State Fire Marshal. This process should be vetted through legal counsel to ensure it is a legal course of action.

**Inspections/Plan Review** – The BCC grants their statutory authority through a RFP to a properly trained entity that can perform fire code inspections on behalf of the BCC and keep records of said inspections. This process should be vetted through legal counsel to ensure it is a legal course of action.

#### **Pros:**

- All statutory obligations are being met.

#### **Cons:**

- Entities may charge a fee to the county to provide these services for them.
- Can statutory authority be granted to another entity?

### **Solution 3:**

**Investigations & Inspections/Plan Review** – The County hires a properly trained person or appoints a properly trained person to be considered the assistant to the State Fire Marshal's office and that person

would function as the local Fire Marshal for the unprotected area. They would be responsible for all fire investigations, inspections and plan review input related to fire department access and water supply. This process should be vetted through legal counsel to ensure it meets the legal intent of the aforementioned ORS and OAR.

**Pros:**

- All statutory obligations are being met.
- Single point of contact controlled by the county.

**Cons:**

- Increased cost to the county to hire someone and/or train them.

**Solution 4:**

Investigations & Inspections/Plan Review – Establish a Master Plan or Service District under ORS 451 for Fire Prevention and Protection. If the county established a service district and contracted out those services to a single provider, that provider could then be the responsible party for investigations, inspections and plan review for the unprotected area. This process should also be vetted through legal counsel to ensure it meets the legal intent of the ORS and OAR.

**Pros:**

- Through an RFP or bid process (much like ambulance services) which would include a list of standards and certifications that a company must meet, the county could help satisfy the obligations of fire prevention and protection services.
- Provides adequate resources to meet the needs of the unprotected community.
- Provides stability through contract that those services stay in existence.
- No taxes required to fund the services.
- If provided through contract, there could be rate control much like utilities and garbage service.
- Still allows choice to the consumer on whether to subscribe to the service or not.
- Allows standards to be in place for the business providing the services.
- Could provide money to the county to administer the plan.
- Provides competition based on the bidding process to obtain the contract to provide the services.
- It may allow for grants to be written and awarded to help better the services.

**Cons:**

- It isn't a Rural Fire Protection District that would be run by its own board of directors.
- Services are still provided by a private company.
- Can statutory authority be granted through the service district and/or master plan?

In summary, there is a defined problem in the unprotected area that is required to be addressed under the Oregon Revised Statutes. The list of potential solutions is not all-inclusive but meant to be used as a starting point to find a permanent solution to the problem that is both right for the community and satisfies legal requirements. The State Fire Marshal's office is here to assist the county in finding the

## Board of Commissioners

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**From:** Shaw, Mike W <mike.shaw@state.or.us>  
**Sent:** Tuesday, January 31, 2017 8:26 AM  
**To:** Simon Hare; Lily Morgan; Dan DeYoung  
**Cc:** Board of Commissioners; Wally Hicks; Dave Daniel  
**Subject:** February 7 General Discussion Meeting  
**Attachments:** Josephine County BCC.docx

Commissioners-

I wanted to provide you with some information prior to the general discussion meeting on February 7<sup>th</sup>. The attached document should give you a good overview of the subject at hand and is also meant as a starting point for the conversation and the beginning to help the county find a viable option to deal with the problem at hand. Please feel free to contact me ahead of the meeting to clarify or answer any questions you may have. We are looking forward to the conversation and helping provide a reasonable solution. I have already spoke with Sheriff Daniels and County Legal Wally Hicks in preparation for our discussion.

Sincerely,

Mike Shaw  
Deputy State Fire Marshal  
Douglas, Jackson, Josephine Counties  
Oregon Office of State Fire Marshal  
Oregon State Police  
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Premier Public Safety Services



Feb 7<sup>th</sup> General Discussion