WASCO COUNTY BOARD OF COMMISSIONERS REGULAR SESSION / AGENDA WEDNESDAY, SEPTEMBER 16, 2015

LOCATION: Wasco County Courthouse, Room #302 511 Washington Street, The Dalles, OR 97058

<u>Public Comment</u>: Individuals wishing to address the Commission on items not already listed on the Agenda may do so during the first half-hour and at other times throughout the meeting; please wait for the current speaker to conclude and raise your hand to be recognized by the Chair for direction. Speakers are required to give their name and address. Please limit comments to five minutes, unless extended by the Chair.

<u>Departments:</u> Are encouraged to have their issue added to the Agenda in advance. When that is not possible the Commission will attempt to make time to fit you in during the first half-hour or between listed Agenda items.

<u>NOTE:</u> With the exception of Public Hearings, the Agenda is subject to last minute changes; times are approximate – please arrive early. <u>Meetings are ADA accessible</u>. For special accommodations please contact the Commission Office in advance, (541) 506-2520. TDD 1-800-735-2900.

9:00 a.m. CALL TO ORDER

Items without a designated appointment may be rearranged to make the best use of time. Other matters may be discussed as deemed appropriate by the Board.

- Corrections or Additions to the Agenda
- Administrative Officer Tyler Stone: Comments
- <u>Discussion Items</u> (Items of general Commission discussion, not otherwise listed on the Agenda) <u>Victims</u>

 <u>Assistance Grant, MCCOG Special Transportation Contract Amendment</u>, <u>Pine Hollow Recreation & Facilities</u>
- <u>Consent Agenda</u> (Items of a routine nature: minutes, documents, items previously discussed.) <u>Minutes: 9.2.2015</u>
 <u>Regular Session, Franchise Transfer</u>

9:30 a.m.	North Central Public Health Quarterly Report – Teri Thalhofer/Mike Smith					
9:45 a.m.	Economic Development Commission Quarterly Report – Carrie Pippinich					
10:00 a.m.	2015 Fair Report – Colleen Tenold-Sauter/Ken Polehn					
10:15 a.m.	Community Corrections 5138 Contract Community Corrections Supplemental Fund M57 Contract Rick Eiesland					
10:25 a.m.	Walnut Street Property Update – Fred Davis					
10:35 a.m.	County Policies – Angie Brewer/Molly Rogers					
10:50 a.m.	Resource Advisory Committee Update – Arthur Smith					
11:00 a.m.	Work Space Reconfiguration – Jill Amery/Lisa Gambee					
	LUNCH BREAK					
1:30 p.m.	Public Hearing PLAAPL-12-07-0001 of PLANCU-14-09-0003 – Angie Brewer					

NEW / OLD BUSINESS ADJOURN

If necessary, an Executive Session may be held in accordance with: ORS 192.660(2)(a) – Employment of Public Officers, Employees & Agents, ORS 192.660(2)(b) – Discipline of Public Officers & Employees, ORS 192.660(2)(d) – Labor Negotiator Consultations, ORS 192.660(2)(e) – Real Property Transactions, ORS 192.660(2)(f) To consider information or records that are exempt by law from public inspection, ORS 192.660(2)(g) – Trade Negotiations, ORS 192.660(2)(h) - Conferring with Legal Counsel regarding litigation, ORS 192.660(2)(i) – Public Investments, ORS 192.660(2)(m) – Security Programs, ORS 192.660(2)(n) – Labor Negotiations



PRESENT: Scott Hege, Commission Chair

Rod Runyon, County Commissioner

Steve Kramer, County Commissioner

STAFF: Tyler Stone, Administrative Officer

Kathy White, Executive Assistant

At 9:00 a.m. Chair Hege opened the Regular Session of the Board of Commissioners with the Pledge of Allegiance.

Ms. White asked to add the Pine Hollow Facilities Personal Services Contract, Multi-County Code Update Program and a November PERS meeting to the Discussion List.

Public Comment - Building Codes

Wayne Lease, Washington resident and Oregon Licensed Master Electrician, shared documents listing some facts and dates related to MCCOG's Building Codes department (attached). He pointed out that if the City or County does not want to run Building Codes, the State will do it – the County can opt out. He noted that the State runs Building Codes for Coos and Umitilla Counties where the fees are 20% lower than they are in Wasco County; considering the addition 12% surtax, the total savings to the customer would be about 23%. He stated that he believes the only reason to run it locally would be to skim off money from the fee revenue. He noted some discrepancies in the finances at MCCOG and observed that the MCCOG Board members need to read their own bylaws.

Chair Hege asked Mr. Lease if he believes the State can provide an adequate service level. Mr. Lease responded that they provide adequate service in Coos and Umitilla Counties. He said that MCCOG has stolen money and the taxpayers should get it back. He added that if they are going to hire a new MCCOG director, they should make sure he understands the law – Building Codes fees have to be separated from other finances.

Public Comment - Marijuana

Widge Johnson of The Dalles asked what the criteria are for placing the marijuana issue back on the ballot. Chair Hege explained that the County can opt out of the implementation of the law; we are taking public comment for that. If the County opts out, the issue automatically goes on the ballot. He stated that citizens do not have to attend the Town Halls to provide comments – they can call, fax or email. The decision will not be made at the Town Halls but will probably come before the Board at the October 7th session.

Commissioner Runyon added that if the County has not opted out by a certain date and someone is granted a permit; that permit will be grandfathered in. He noted that we are trying to discover if it can be placed on the ballot even if the County does not opt out. He pointed out that the County's jurisdiction is only for the unincorporated areas of the county; the cities will be making their own determinations. He said that there are still a lot of questions and the Board wants to hear from the public. He announced that there is a lot of information on the County website and from that there are more questions being generated.

Discussion List – Victims Assistance Grant

Victims Assistance Coordinator Judy Urness reported that the Victim's Assistance Grant has been increased by \$23,000 per year for two years. She noted that the District Attorney's Office is mandated to provide these services. She said that with the funds she would like to increase her position to full time and add an additional person.

Interim Finance Director Debbie Smith-Wagar stated that hiring based on grant funding is a policy decision for the Board. She said they would not move forward until they were confident in the funding.

Ms. Urness said that there is interest within the DA's office for the additional position.

Chief Legal Secretary Elizabeth Osborne stated that she is aware that the Administration shies away from grant-funded positions. She noted that they were not looking for a grant to fund the staffing increase but if the funds are not used, they will go away. This will put into place another certified victim's advocate; even if the position goes away, the knowledge will remain in the office.

Ms. Urness stated that the additional staff will have to attend a week-long Victims Academy which starts October 26th. If the grant funding decreases, they can go back to what they were doing.

Commissioner Kramer asked how far back the grant has been in place. Ms. Urness said it began in 1985. Commissioner Kramer asked if it has increased every biennium. Ms. Urness responded that it has not increased every biennium but has steadily increased over the years. Ms. Osborne noted that this kind of increase is unusual.

Ms. Urness reported that there is another non-competitive grant for about \$30,000 in emergency services money which will have to be spent in the span of 21 months.

Mr. Stone said that his concern in using grant dollars to hire staff is that if the funding does not continue, the County is faced with unemployment costs. Ms. Urness suggested that if current staff moves into this position, a temporary person could be hired as a receptionist.

Ms. Smith-Wagar stated that she does not believe that a 2-3 year hire can be considered temporary. Further discussion ensued regarding recent increases to staffing in the DA's Office.

{{{Commissioner Runyon moved to accept the proposal from Ms. Urness to accept the increased Victims Assistance Grant funding pending the funds arriving and working with the Finance office to ensure it is properly implemented. Commissioner Kramer seconded the motion.

DISCUSSION

Chair Hege asked if there is a match required for the additional funding. Ms. Urness replied that there is; the match is covered by CFA funding. Chair Hege asked if the funds can only be used for staffing. Ms. Urness responded that they can be used for other things but will be best used by staffing. Ms. Osborne noted that the expected January funding cannot be used for staffing and will be used for other things.

Commissioner Kramer stated that we really need to clarify that if these grant dollars go away, staffing will have to be scaled back. Ms. Osborne suggested that it can be readdressed in a year. Commissioner Runyon stated that in his mind the motion was based on the additional funding. Ms. Urness agreed saying that if the funding goes away, staffing will go back to where it was prior to the additional funding.

The motion passed unanimously.}}}

Agenda Item – Public Health Quarterly Report

Public Health Director Teri Thalhofer and Public Health Business Manager Kathi Hall came forward to present the North Central Public Health Quarterly Report. Ms. Thalhofer stated that the spreadsheet report has been before the Board previously; it now contains the fourth quarter data. She noted that the narrative report has had three changes since its publication in the packet; the updated document will be sent to Ms. White for inclusion in the record. She noted that one of the corrections was the number of tobacco related deaths – the original document cited 3 deaths which was only for Sherman County. The actual number for the 3-county region is 1,485 serious tobacco related illnesses and 98 deaths.

Ms. Thalhofer reviewed some of the highlights of the report noting that the Tobacco Coordinator worked successfully with Columbia Gorge Community College to develop and new tobacco policy. She added that the report is not tied to NCPHD's strategic plan; that will be developed through an assessment by both NCPHD and their partners. She reported that the current strategic plan did not resonate with staff and they are going through the that process again. She said that the annual report will be released today.

Chair Hege asked about the figures associated with the number of women of child

bearing age who lack health insurance. Ms. Thalhofer said she would get that number – it has changed. Chair Hege pointed out that there will no longer be prescription coverage for the pill. Ms. Thalhofer said that it will be interesting but fewer women are using the pill; more are using long-acting methods. The cost will be an issue for women who are not funded; you can get it from a pharmacist if you are of age.

Ms. Thalhofer said that the other fiscal document contained in the packet is a response to the Board's question regarding how the County dollars are invested in programs. She noted that the easiest review is in the summary, pointing out that the numbers are unaudited for the year ending 7.31.2015 – the detail listed on the additional spread sheet shows how the county dollars are spent.

Ms. Thalhofer concluded by saying that they are in the process of an audit and will bring to the Board the numbers illustrating how the counties are budgeted for the current fiscal year.

Agenda Item - Economic Development Commission Quarterly Report

MCEDD Project Manager Carrie Pipinich and EDC Chair Joan Silver came forward to present the EDC Quarterly Report. Ms. Pipinich reviewed the report included in the Board Packet, noting that projects are moving forward throughout the County supported by various subcommittees of the EDC.

In reference to the broadband work being done in the rural parts of the County, Commissioner Runyon noted that the lines drawn for service seem to have left out some communities. Ms. Pipinich responded that the FCC has a cost formula to determine which areas can be affordably reached. Commissioner Runyon said that he would at least like to get a letter on record asking for them to look at those areas again. Chair Hege observed that it appears to be a random lay-out. Ms. Silver said that the long-range hope is to connect the County and they are doing a good job of moving toward that.

Ms. Silver went on to say that it is very timely and wonderful that the communities the EDC is reaching out to have been welcoming and interested in what can be done to help them. She said she believes we will see each of them moving forward with projects that have been on their books for years. She said her concern has been that these rural parts of the County not be left behind; this is a good start.

Commissioner Runyon agreed saying that these are positive steps; there is not enough coverage of the many positive things happening in the County.

Agenda Item - Annual Fair Report

Fair Board Members Colleen Tenold-Sauter and Zach Harvey came forward to present the 2015 Wasco County Fair report. Ms. Tenold-Sauter thanked the Board for their support and attendance at the Fair. She said that Maupin Market sponsored the Best of Wasco County this year. 4-H netted \$117,000 for the youth that participated in the auction which is up from past years. She stated that the Fair is getting good support from businesses. In addition, 4-H had over 100 volunteers and the Fair had over 150 volunteers. The Gate was \$25,755, up from \$23,000.

Chair Hege asked how many people came to the Fair. Ms. Tenold-Sauter replied that it is hard to say as they did not use tickets. Entry is \$6 for adults and \$4 for children; there are people who get free passes – exhibitors and volunteers. Ms. Smith-Wagar said that next year there will be tickets so there will be a count for attendance.

Ms. Tenold-Sauter reported that they had a great Senior Luncheon – several of the city mayors came to help serve – Maupin, Dufur and The Dalles. She said that it has grown to quite an event and the last couple of years has seen more engagement with the seniors.

She said that overall it was a very successful fair – a tent blew into a power line but otherwise it was without incident. She said that the Fair Board purchased some items at auction some of which will be used to repair the rodeo arena. Mr. Harvey added that there is a rodeo planned for October – the Mexican rodeo that used to be held in The Dalles is going to try using the Fair Grounds this year. After that rodeo, the arena will be disassembled, repaired and reassembled.

Commissioner Runyon reported that he spent some time in the east parking lot during the Fair and noted that it is very difficult to navigate for those with walkers, canes, etc. He asked if the property is owned by the County. Mr. Harvey replied that the County rents the property which is cattle pasture. Mr. Stone pointed out that even if the ground were leveled and reseeded, the cattle would go back in and it would be in the same condition as it is now. Ms. Tenold-Sauter suggested that the gate staff can be educated to make sure that the parking closest to the fence be

reserved for those with disabilities and suggest that people needing assistance be dropped off at the main gate.

Commissioner Kramer said that he sent them the contact information for the Deschutes County Fair manager; they just purchased new equipment and may have some items to surplus.

Ms. Smith-Wagar provided a financial report; she said that it does not mean much without comparison and some of the contributions have not yet been received. She added that the numbers do not include beginning fund balances – this is just for 2 ½ months. She said that there are Fair Board expenses and building maintenance included. She stated she wants to start bringing similar information to the Board for other items.

Ms. Tenold-Sauter said that Ms. Smith-Wagar has been great at helping the Board understand the financial process. Mr. Harvey agreed, saying that the support they have received from the County has been great. He said that the first few years he was on the Board, they never saw anyone from the County – the last few years have been great!

Chair Hege asked Sheriff Rick Eiesland how the Fair went from a law enforcement standpoint. Sheriff Eiesland replied that it was really good – no incidents, no arrests for 2 years in a row. He said that he thinks that is due to educating the public that we will not tolerate bad behavior.

Agenda Item - Community Corrections Contracts

Sheriff Eiesland stated that these are contracts that have been ongoing since Measure 1145 funding became available; there are no major changes. He reported that he and Mr. Stone have been looking into whether or not the County should continue with 1145 or if it should go back to the State. He said that we receive about \$1 million to run it. He said that if it goes back to the State, they would have to rent jail beds if they sanction people.

Chair Hege asked if there is a threshold for sending it back. Sheriff Eiesland replied that there are a number of triggers. It is a one-year contract but we can opt out with 30-60 days' notice. He said that with few exceptions, we are no longer doing

misdemeanor cases; the State will not handle those either. He added that there has been an increase in felon cases and we now have over 300; we are hiring for a 4th probation officer and have advertised for a new manager. He said that the M57 contract is for presentenced DUI case reimbursements.

Sheriff Eiesland said that he recommends going forward with the contracts now and make the decision regarding opting out at a later time. Mr. Stone agreed that at this time as it is too late to opt out without the contracts – the timing is not good with being down by one officer and the manager retiring on short notice. He added that if we are going to look into it, this is a good time. He said they are currently doing a cost analysis. He reported that he has talked to the State; this is the very beginning stages of a decision.

Chair Hege asked if signing the contracts now moves this forward before a decision is made. Chair Eiesland responded that it keeps it in place for at least 90 days while we continue to explore our options. He said that initially some of this funding was used to help build the jail.

Mr. Stone added that it would have been better to have started this process 6-8 months ago but the timing was not right for that. Sheriff Eiesland noted that the State does not want it back but there are two counties that did give it back to the State; in those counties, they transferred the County employees to make them State employees – that is probably what would happen here.

Commissioner Kramer asked if it is his recommendation to approve these contracts and continue to explore the issue. Sheriff Eiesland responded affirmatively.

Commissioner Runyon asked what the process will be for hiring a new manager. Sheriff Eiesland replied that whoever is selected will have to go through the academy unless they are already certified. He said that they will be testing after the 25th for the probation officer.

Commissioner Runyon asked what the interview panel will look like. Sheriff Eiesland replied that he will try to get someone from the public along with law enforcement from the jail, Hood River, Sherman and/or Gilliam Counties.

{{{Commissioner Kramer moved to approve Intergovernmental Agreement #5138 between the State of Oregon and Wasco County. Commissioner Runyon seconded the motion which passed unanimously.}}}

{{{Commissioner Runyon moved to approve Intergovernmental Agreement #5180 between the State of Oregon and Wasco County. Commissioner Kramer seconded the motion which passed unanimously.}}}

Sheriff Eiesland announced that they have received a new fingerprint machine from OSP through a grant for sex offender registrants – they did not have a place for it. He stated that it will require a new cabinet; it has been recommended that a wire mesh cage be used to secure that. He asked how the Board felt about that aesthetic.

The Board was in consensus to have the Sheriff move forward with plans in conjunction with facilities to house the new fingerprint machine in the lobby of the Sheriff's office.

Agenda Item – Walnut Street Property

Facilities Manager Fred Davis reminded the Board that he recently provided them with information regarding the County property located at 1915 W. 10th Street in The Dalles; the Board had directed him to bring them information regarding the removal of the house from the property. He referred them to the Emmert Option Agreement in the Board Packet and explained that the County could sell it to them for \$1; they would market the house and if sold, the purchaser would pay for the move. Emmert makes their money on the installation of the house on the new site. He said that they have done a walk-through of the house and are interested in moving forward. He said that counsel would have to look over the document before moving forward and the Board would have to surplus the house. He added that demolition of the property would cost between \$8,000 and \$10,000.

Commissioner Runyon asked if there is any vision for the property. Mr. Davis replied that there is not at this time, although the property is attached to other county property. For now, he would just remove vegetation and maintain it as an empty lot.

Commissioner Runyon asked if there are any gas lines to the house. Mr. Davis replied that there are; those would have to be removed. Commissioner Runyon observed

that it is a neighborhood eyesore. Mr. Davis replied that it is becoming one; we seem to have nightly visitors no matter what is done to secure it.

The Board was in consensus for Mr. Davis to move forward in the process with Emmert International to have the house at 1915 W. 10th Street, The Dalles, OR removed.

Agenda Item - County Policies

Youth Services Director Molly Rogers and Planning Director Angie Brewer came forward to present new/revised County policies. Ms. Rogers said that in July the Board approved the Wasco County Performance Management Policy with the understanding that it would be further revised and returned to the Board. She reported that a group of the Directors came together to work on this and the result of that work is two revised and one new policy. She stated that all three have been presented to the management team for input and all have been approved by County Counsel. She went on to say that CIS has also approved all three policies. Ms. Brewer added that they did get buy-in from the Management Team.

Ms. Rogers reported that the group is committed to continue to meet after Management Team meetings to continue the work on policies. She said it is a great group. Commissioner Runyon observed that there is a certain amount of flexibility in the policies and they seem to be designed to continue to change as needed. Ms. Rogers pointed out that previously, when an employee reached step seven they would basically be frozen; there were awards but they got muddled with the steps – this clearly makes them performance awards.

Mr. Stone said that when this project was assigned to the group, it was a large and difficult to get their arms around. He said that this is a new concept for government and the group went above and beyond to make it workable at the department level. He stated that they did an outstanding job.

{{{Commissioner Runyon moved to approve the Wasco County Compensation Policy to replace all previously adopted compensation policies. Commissioner Kramer seconded the motion which passed unanimously.}}}

{{{Commissioner Kramer moved to approve the Wasco County Performance

Management Policy to replace all previously adopted performance management policies. Commissioner Runyon seconded the motion which passed unanimously.}}}

{{{Commissioner Runyon moved to approve the Wasco County Employee Performance Award Policy. Commissioner Kramer seconded the motion which passed unanimously.}}}

The Board thanked the group and commended them for their work.

Discussion Item - Multi-County Code Update Program

Ms. Brewer said that she would like to submit a letter requesting to participate in the Multi-County Code Update Project. She said participation requires a formal request; she has spoken to three other counties who have participated previously and they are very pleased with the results. She stated that it will provide us with a template and process for moving forward on other updates. She said it has to be submitted by the end of the month.

The Board was in consensus to sign the letter requesting to participate in the Multi-County Code Project.

Agenda Item - Resource Advisory Committee

Public Works Director Arthur Smith stated that this group helps direct the expenditure of SRS payments to counties for Title II projects. He said they have met with the Forest Service regarding priorities. He concurs with the four projects listed as Forest Service priorities – Barlow noxious weed control, Sportsmans Paradise Thinning, Voodoo Mastication and Hesslan Thinning. He explained that he represents Wasco County as a voting member on the committee. Although he is able to vote without consent from the Board, it has traditionally been communicated to the Board for their support prior to a vote.

The Board was in consensus to support Mr. Smith's recommendations proceed with four Title II projects in Wasco County: Barlow noxious weed control, Sportsmans Paradise Thinning, Voodoo Mastication and Hesslan Thinning.

Agenda Item - Work Space Reconfiguration

County Clerk Lisa Gambee and County Assessor Jill Amery came forward to discuss plans for reworking their offices. Ms. Gambee explained that they discussed the needs of the citizens and concluded that it makes the most sense to swap offices between the Clerk and the Assessor. The Clerk's office is 300 square feet larger than the Assessor's office; the Clerk has a staff of 4 while the Assessor has a staff of 13. She went on to say that the Assessor budgeted \$25,000 to help accommodate her growing staff's space needs; they plan to use as much of the existing furniture and counters as possible and use the Assessor's budget to cover any additional costs. She said that once they have actual costs lined out, they will report back to the Board.

Ms. Gambee went on to say that they looked at the security needs and determined that the vault does not need to be moved. The ballot counting room remains locked when not in use and also has video surveillance; that will be moved to the Quest room permanently to meet State requirements. She stated that they hope to make that move next week. Shaniko has an election scheduled in November; she wants it moved before that so the new set-up can be tested.

Ms. Gambee said that the final move will be intense and is planned for the weekend before Christmas – from Friday afternoon through Monday morning. She stated that they are looking at being open half-days on those two days but will need permission to do so; they want to give advance notice to customers.

Commissioner Kramer said it is important to serve the public. Commissioner Runyon agreed adding that it is also important to have adequate work space for the Assessor's staff to continue catching up with the workload. He asked if there is a plan for notifying customers of the planned half-days. Ms. Amery said that they will develop one once they have Board approval to move forward. Ms. Gambee observed that they have processes in place for other types of notification and will be able to use those. Ms. Amery stated that they will leave the public access computers available in the hallway throughout the move.

{{{Commissioner Kramer moved to approve switching the Assessor's and Clerk's office locations as recommended by staff with the move to occur the weekend before Christmas with both offices opened for half-days on Friday,

December 18th and Monday, December 21st. Commissioner Runyon seconded the motion which passed unanimously.}}}

Discussion Item - MCCOG Dial-a-Ride Contract Amendment 1

Ms. White explained that the Board signed the original Dial-a-Ride Contract in July. Since that time, the program has been reviewed by ODOT with only one high-priority finding – this contract was lacking the required Federal contract language. The amended contract contains no changes from the original other than the addition of the required language.

{{{Commissioner Runyon moved to approve the MCCOG Dial-a-Ride Contract Amendment 1. Commissioner Kramer seconded the motion which passed unanimously.}}}

Discussion Item – Pine Hollow Recreation/Pine Hollow Contract

Commissioner Kramer explained that this contract is similar to past contracts for this work however the time line has been modified to run from July 1st to September 30th due to the limitations of the grant; adequate funds needed to be held to complete other maintenance required by the grant. He stated that he has begun a conversation to offer this contract to the TOOLS program for next season; it would be mutually beneficial.

Chair Hege said that this basically just shortens the time frame for the work. Commissioner Kramer confirmed, saying that previously all the money was used for just the bathroom which was being maintained year round rather than seasonally but the parking lot was not being maintained at all. He said that the parking lot needs attention – if not repaired it will have to be closed. He reported that Public Works has agreed to help with the parking lot.

Commissioner Runyon asked if the work has been inspected as required by the contract. Commissioner Kramer replied that he has been monitoring the work himself; Mr. Hazel does a great job with the restroom and has agreed to continue through September.

Chair Hege asked if Mel's Sanitary has been servicing that at no cost. Commissioner

Kramer said that he has been but other arrangements will have to be made now that Mel's Sanitary has been sold.

{{{Commissioner Runyon moved to approve the Personal Services Contract for Restroom and Site Maintenance at Pine Hollow Reservoir with the date correction on page 2 of the contract. Commissioner Kramer seconded the motion which passed unanimously.}}}

Commissioner Kramer explained that there have been issues associated with Pine Hollow Reservoir/Recreation Area for many years. Issues with bandages but without true outcomes – it is time to move that to resolution. In line with his commitment to Wasco County to become one County, he has brought together stakeholders to address and find solutions to the existing challenges. As part of that effort, he has offered County resources to work with the stakeholders - Mr. Stone to facilitate along with the skill and expertise of our County Surveyor, GIS and Planning Department, Public Works, Assessor and County Clerk's Offices. Also in the mix we have engaged local citizens and State partners – ODFW, Regional Solutions and the State Marine Board.

Commissioner Kramer expressed his commitment to work with all parties involved to identify solutions, but explained that the work will not be without cost. He said there are tentative financial commitments of \$1,000 each from Badger Creek Irrigation District, Wamic Rural Fire Foundation and South Wasco Alliance. He requested approval for up to \$5,000 from the Board's Special Project Fund to facilitate the important work being done to find solutions that will help strengthen our overall County community.

He went on to say that most of the funds will be used for Oregon's Kitchen Table. Mr. Stone explained that Oregon Kitchen Table works with communities to gather information and involve communities on difficult issues being faced; they worked with Curry County to engage the community on severe budget cuts. He said that it is an avenue that the stakeholder group would like to explore to foster community engagement.

{{{Commissioner Kramer moved to allocate up to \$5,000 from the Special Projects budget to move forward toward a solution for the Pine Hollow

Recreational Area. Commissioner Runyon seconded the motion which passed unanimously.}}}

Chair Hege asked if there is a timetable for the project. Mr. Stone said that they have not yet developed a timetable but are looking at grant cycles to help put that together. Commissioner Kramer reported that the group has been meeting every two weeks and at the next meeting will hear from the history team, the boundary team, the public relations team and Kate Sinner from Regional Solutions.

Discussion Item – PERS Meeting

Ms. White stated that the Executive Director for PERS is touring the State to meet with counties and cities to outline changes to PERS and to answer questions. She said that they are looking for attendance from administrators/managers, human resources departments, finance and perhaps a Commissioner. She asked if any of the Commissioners would be interested in attending. Chair Hege said that he will plan to attend.

Consent Agenda - Minutes/Franchise Transfer

Chair Hege said that on page 3 of the minutes he would like to clarify that when he was referring to concern about water usage he was talking only about the County, not the cities.

{{{Commissioner Kramer moved to approve the Consent Agenda with the correction to the minutes. Commissioner Runyon seconded the motion which passed unanimously.}}}

Commission Call

Commissioner Kramer announced that OWEB will have grants available for Forest Collaboratives; the deadline for submission is November 13th. Grant funding will be to increase restoration efforts and will provide technical assistance.

Commissioner Kramer reported that Wamic Grade work is moving forward; they are digging up and packing in materials to support soft spots.

Commissioner Runyon stated that he attended the Court Security meeting at the AOC. Wasco County is at the top of the list for an electrical panel upgrade. Mr.

Stone said that the dollars are there; we need to go out for bids and bring it to the committee to adjust funding up or down.

Commissioner Runyon said that at the AOC Veterans Committee meeting he presented a list of issues developed by Wasco County VSO Officer Russell Jones. He said that everyone recognizes our program as a model and we are now moving forward on another project in conjunction with the NORCOR mapping project. Mr. Stone added that at the last Veterans Volunteer Staff meeting he learned that the Federal VA is also recognizing our program.

Commissioner Runyon reported that the MCCOG Board is on the second stage interviews for a new Executive Director; three applicants remain in consideration – one from Texas, one from The Dalles and one from Hood River. He encouraged everyone to reach out to the MCCOG Executive Committee to provide feedback.

Chair Hege recessed the session at 11:34 a.m.

The Session Reconvened at 1:30 p.m.

Agenda Item – Public Hearing PLAAPL-12-07-0001 of PLANCU-14-09-0003

Chair Hege opened the hearing at 1:30 p.m. reading from the script (attached).

Chair Hege asked if any Commissioner wished to disqualify themselves for any personal or financial interest in this matter. There were none.

Chair Hege asked if any Commissioner wished to report any significant ex parte or pre-hearing contacts. There were none.

Chair Hege asked if any member of the audience wished to challenge the right of any Commissioner to hear this matter. There were none.

Chair Hege asked if any member of the audience wished to question the jurisdiction of the Board to act on behalf of Wasco County in this matter. There were none.

Chair Hege asked if any Commissioner had conducted a site visit to the subject

property. There were none.

Chair Hege asked Ms. Brewer to present the staff report. Ms. Brewer reviewed the report included in the Board Packet. She explained that the home was lost in 2013 as the result of a wildfire. She stated that the applicant had started working with the Planning Department within the one-year requirement to legally replace the home. She reported that staff had completed their research and had a difficult time finding files on what existed prior to the fire; verification of a non-conforming use was determined to be the best path to follow.

Ms. Brewer stated that the property is just over 13 acres and is located in an exclusive farm use zone. She said that the staff has to verify non-farm use was established before it can be re-established. The dwelling existed in 1979 with modifications afterward. At the time the dwelling was placed it was a Zone A-3 which is different than what it is today; it would have required a Planning signature but none has been discovered. She said it is very likely that the owners at the time did not go through the permitting process when it was built or modified or when the accessory structure were added; neither the Building Code Department nor the Health Department have any record – there is no evidence to verify lawful placement.

Ms. Brewer explained that if you believe that a structure was placed prior to permit requirements, you can use other methods to establish the date of placement – photos, utility bills, etc. However, in this case it is clear when the home was placed; that is not in question. Staff was unable to establish that the placement was lawful. She added that there are some findings about what a replacement would look like, but that was not pursued since they could not establish lawful establishment.

Mr. Brewer stated that the applicant cited statute to demonstrate that the structures had been there for 20 years or more which staff is not contending. However, they argue that ORS 215.130 prohibits a county from requiring an applicant to prove the existence, continuity or nature and extent of use for more than 20 years immediately preceding an application. She stated that the Planning Department's interpretation of the statute is that a county is not prohibited from confirming non-discretionary evidence of lawful establishment when we know the date of establishment. The Planning Department was not able to verify a non-conforming use was lawfully established at the time of construction.

Ms. Brewer stated that the staff report and the Planning Commission's decision to deny is limited to verification of a non-conforming use; there was not an analysis of other uses. During the initial discussion, this was determined to be the most likely path to possible approval. The applicant is free to pursue other paths. She reviewed the options open to the Board:

- Agree with the findings of the Staff Report and affirm the Wasco County Planning Commission's decision to deny the non-conforming use determination and deny the replacement development
- Reverse the Wasco County Planning Commission's decision and approve the non-conforming use determination and approve the replacement development with conditions of approval recommended by the Planning Department
- Remand the Wasco County Planning Commission decision back to staff for additional analysis and a future hearing date
- Continue the hearing to a date and time certain to allow the submittal of additional information.

She stated that should they reverse the decision or remand to staff, they should be specific as to their reasons. She added that the Planning Commission's vote was 4-3 to deny. Staff's recommendation is to uphold the Planning Commission's decision and agree with the findings of the staff report and deny both the non-conforming use determination and the replacement development.

Chair Hege asked what the A-3 zoning was in 1979 and if that matters. Ms. Brewer replied that it matters that we know what was allowed at that time; she reported that she has the ordinance and has reviewed it numerous times. She said that the old zoning would have allowed establishment with a permit. She said that current zoning is less clear as to how that development would be allowed.

Chair Hege stated that the issue seems to be that there is no evidence of any permits and that is the basis for denial. Ms. Brewer said that there are permitting records of other dwellings going in that area at that time. She said that there should have been a file outlining confirmation of zoning, setbacks, building height, etc. In addition, there

should have been a Building Department permit which requires a Planning signature – Planning would have retained a copy of that permit. She reported that she contacted Environmental Health; they do not have any septic records on file.

Ms. Brewer stated that the Planning Department recognizes the unfortunate situation and tried to find a path to follow that would allow approval; however, the Department is not comfortable with the precedent that would be set by the applicant's interpretation of the statute.

Chair Hege asked the applicant to present their case.

Carrie Richter, Attorney for applicant Joe Garofoli, stated that had there not been a wildfire, Mr. Garofoli would still be living there; no one disputes the continued use of the dwelling over the last 36 years, including 7 years by Mr. Garofoli. Mr. Garofoli has paid County taxes throughout his ownership. The fire, for which he was not responsible, and the County will in effect take away his right to residential use of his property. She pointed out that the land is under-sized and has no water rights making it unusable for farming.

Ms. Richter stated that sub-10 of 215.130 states that a local government may adopt standards and procedures to implement the provisions of this section. This is the non-conforming use section of the State law. The standards and procedures may include, but are not limited to the following:

- A 10 year period of continuous use.
- Provisions about interruption.
- Conditions about alterations.

The County has done this with its local Code. Unless State law prohibits the County from implementing its Code, it is free to do so. The County is subject to its Code. She said this is the first time the County has had the opportunity to interpret its verification procedures. She said that the County is free to interpret their Code as it sees fit without relying on 215.130; the law gives the County the authority to do that. Ms. Brewer clarified, saying that the County has verified other non-conforming uses

but this is the first time they have done so using 215.130 as part of the verification. Ms. Richter said that the point she is making is that the local code controls the existence question – it is not controlled by decisions in other counties or by state law. She stated that the Board is being asked to interpret 13.060 of the Land Use and Development Ordinance.

Ms. Richter pointed out that the local code allows for special treatment in cases where the dwelling is destroyed by fire. 13.060A provides: If a non-conforming structure is destroyed by fire, restoration or replacement shall be permitted subject to the following criteria – a 12-month application requirement, structure needs to be the same size, location limits, compliance with current health and safety requirements, etc. She noted that the list does not include verification. She stated that there is an interpretation that can be made to allow the replacement without verification in case of fire.

Ms. Richter went on to say that if the Board decides that verification is necessary, the Code sets forth standards – non-discretionary evidence or in the absence of that, photos, utility bills and testimony. She stated that Mike Ferguson, son of the original owner, will testify to the 1979 date of establishment. When the dwelling was built, it was zoned for that type of dwelling; A-3 required only a signature with no review. She pointed out that the local Code does not define "verification;" the Board can then interpret it. She said that under the Planning Department's interpretation there is a disincentive for applicants to secure testimony to prove when it was established and prove lawfulness.

Ms. Richter said that the partition was properly executed which leads her to make a reasonable inference that he also followed proper permitting for the house. She reminded that Board that some of the permit records were lost to a fire – it is estimated that they have approximately 90% of the records intact; some permits have been lost. She said that 36 years of existence without interruption or complaint, testimony that it was placed in 1979, and the fact that zoning allowed for residential dwellings at the time it was placed establishes lawful use.

Ms. Richter said that one of the things the Planning Commission faulted Mr. Garofoli for is failing to take heed of the disclosures that would have come with his deed. She explained that there are two types of disclosures – one is a check list from

the seller disclosing knowledge of hazards, land use violations, etc. Since Mr. Garofoli did not purchase from Mr. Ferguson, he did not get the benefit of his knowledge – we do not know what Mr. Ferguson did or did not know. She said that the deed requirements on the bottom of deeds that advises purchasers that title insurance does not assure compliance with local land use law was not required on deeds until 2007; Mr. Garofoli purchased in 2006.

Ms. Richter, referencing the Planning staff's concern over setting precedent, said that every quasi-judicial decision is a fact-based inquiry that stands on its own merits. She stated that the Board is free to interpret the Code every time it makes a decision, particularly in non-conforming use determinations because they are so fact-based. She pointed out that in this case there is agreement about the establishment date and that at that time this use was allowed. She noted that the structure was over 30 years old; replacement will require that it conform to current building and septic standards. Denying the application will deprive Mr. Garofoli of the use of his property as it is not suitable for farm or forest use.

Mike Ferguson, son of the original owner of the dwelling, stated that he was 12-13 years old when his father purchased the property and placed a mobile home for hunting. He said that then his father decided to build – they used 12-volt power and an outhouse neither of which would have required a permit. He said that his father signed a quitclaim deed back to the previous owners in an effort to prevent his wife from gaining half ownership in a divorce. He said that he would like to see Mr. Garofoli be able to build.

Commissioner Runyon asked how many owners there were between Mr. Ferguson's father and Mr. Garofoli. Mr. Garofoli replied that there were at least two. Mr. Garofoli shared a brief life history with the Board and stated that when he purchased the property he cleaned it up as well as the home he lost to fire. He said that he feels as though he is being punished for something another man may or may not have done 36 years ago. He said that were it not for the fire, the cabin would be there and no one would be complaining. He asked that he be allowed to build a replacement structure, assuring the Board that he will meet all lawful requirements.

Ms. Richter said that Mr. Garofoli is asking that the Board finds that no verification is required due to the fire or if it is required that the Board take the Ferguson

testimony in conjunction with other facts presented to establish lawfulness.

Commissioner Runyon asked if there is mail delivery. Mr. Ferguson replied that there is a row of mailboxes serving several residences in the area.

Commissioner Runyon asked when the zoning changed. Ms. Brewer responded that it change in the early 1980s.

Commissioner Runyon asked if it had been taxed for just the land or for the land with the structures. Ms. Brewer replied that the tax roll lists the structures.

Commissioner Kramer asked if the taxes are current. Ms. Brewer replied that they are.

Chair Hege asked how the taxes were impacted by the fire. Mr. Garofoli said that after the fire he requested a reassessment which was done.

Chair Hege asked if utilities and water exist. Mr. Garofoli replied that water has to be taken to the property; there is septic but no power.

Ms. Brewer said that staff's past practice is that it is assumed that lawful establishment must be verified before you can consider the fire. She said that if there was an application to do an addition, we would be in this same position.

Chair Hege asked if it is in our code to require lawfulness if the property is burned. Ms. Brewer answered that 050 starts with lawful establishment; 060 refers to nonconforming uses. It is staff's belief that you would have gone through 050 first to establish lawful use. She said that the signature referenced by Ms. Richter may seem like a formality but it indicates that the staff verified the use and signed it off on someone else's process to move forward, which is not very different from today's procedure. The signature acknowledges that there was some review. She reminded the Board that this is a complaint-driven county – there are a lot of things of which the Planning Department is unaware unless someone complains.

Chair Hege recessed the hearing at 2:29 p.m. The hearing reconvened at 2:32 p.m.

Ms. Richter stated that there is no indication that this was in violation of 1979 zoning – it would have been permitted. Whether it was or not, a permit would have been issued if requested. She said that staff relies a great deal on the septic permit but there was no septic. The other permits have nothing to do with land use – it would have been approved in 1979.

Chair Hege asked Ms. Brewer if this would have been approved under A-3 zoning in 1979 even without utilities or septic. Ms. Brewer replied that it would have been allowed at that time. She said that even now there are people with composting toilets and water collection systems. She said a replacement structure would have to comply with waste and water regulations.

Chair Hege asked if anyone wished to speak in favor of the application. There were none.

Chair Hege asked if anyone wished to speak in opposition of the application. There were none.

Chair Hege closed the testimony portion of the hearing and asked if the Board had any questions.

Commissioner Kramer noted that Planning Commissioner Brad DeHart had voted against denial of the application and asked him to summarize his view of the application.

Mr. DeHart said that it was difficult and he doesn't fault staff, this is where it should be decided. He said that he felt that the applicant had made a fairly good case to use the land as it has been historically used and taxes have been paid. He said that he does not know if the original owner went through the proper process – sometimes people don't. He added that it is not usable as farm land and it bothers him that we cannot find a way to rebuild his recreational family cabin.

Commissioner Runyon said each case is individual and he does not anticipate a landslide of these types of applications under the same circumstances. Ms. Brewer asked that the Board identify what makes this different than average that would make

it unique. She said that we need to be clear about why it is different to insure equity and fairness in the future.

Chair Hege said that he believes the fire makes it unique; it doesn't happen that often. Ms. Brewer stated that although it is an unfortunate circumstance, her position is that it was not legally placed and it doesn't matter how it was removed.

Commissioner Runyon noted that the application is for a structure larger than the structure destroyed by the fire. Ms. Brewer said that if it is found compliant, it can be larger but will be considered an alteration or modification.

Commissioner Runyon asked if there would be another way to approve the replacement. Ms. Richter replied that without a water right, it would be exceedingly difficult and would need to be for commercial gain. She added that alterations are allowed that do not result in additional impact, noting that the County gave notice to all the neighbors and no one is here to complain.

Chair Hege asked if it is clearly stated that you have to go through Type 1 verification to get to Type 2. Ms. Richter answered that everyone would want Type 1 – it is easier, faster and less expensive. Mr. Garofoli could not use Type 1 and so had to choose Type 2.

Chair Hege acknowledged the loss of some Planning documents due to fire. He said that if they had that single piece of paper with the Planning signature, we would not be here today. Ms. Brewer stated that there is staff that has been in the office for 25 years and dealt with missing permits – they feel confident that we would have this if it existed and the Health Department would have been notified as part of the process. She said it is hard to know what was lost.

Chair Hege noted that it is theoretically possible that the permit was lost. Ms. Brewer said that they found the partition permit. She reported that the fire was caused when someone lit something and put it in a drawer – documents were partially burned.

Chair Hege said that there is the idea that there was a change in deed disclosures after Measure 37. County Counsel Kristen Campbell stated that she does not understand the relevance of that argument – if it was a quitclaim deed, the buyer takes it as-is.

Ms. Richter read from the Planning Commission minutes: "Commissioner McBain stated that real estate law requires a disclosure statement and in that statement there is a question as to whether or not there has been any work or improvements without a permit. He then asked if there had been a disclosure statement regarding the structure. Mr. Garofoli stated that he didn't remember. . ."

Chair Hege said that Ms. Richter had noted that the current disclosure language was not required to be on deeds at the time Mr. Garofoli purchased. She responded that she thought that language might be what Mr. McBain was talking about.

Chair Hege asked for further explanation of ORS 215.130, Subsection 11 – "For purposes of verifying a use under subsection (5) of this section, a county may not require an applicant for verification to prove the existence, continuity, nature and extent of the use for a period exceeding 20 years immediately preceding the date of application." He said that it is not clear to him that the Board cannot rely on the 20 years. He asked if the 20-year argument is invalid.

Ms. Campbell replied that case law exempts the lawfully established requirement from the 20 year limitation in Subsection 11. She said that the limitation applies to existence, continuity, nature and extent of use.

Chair Hege said that it is clear that the zoning at the time of placement would have allowed for the establishment of the residence. The question is if there was a permit had a permit been requested it would likely have been granted. Ms. Brewer agreed saying that based on her research, in 1979 the Planning Department would have allowed it. They would have been required to comply with setbacks, septic standards and building codes. She said that she has no reason to believe that a permit would have been denied.

Commissioner Runyon stated that in his mind the fire makes this unique. Ms. Brewer said that she is not sure the fire makes it unique; we have lots of fires these days.

Chair Hege asked what other processes are available to Mr. Garofoli. Ms. Brewer replied that although she would encourage the applicant to try other options, she does not think they would likely result in a different outcome.

Commissioner Kramer asked if the property is level. Mr. Garofoli answered that about 2 acres are fairly flat, the rest is very steep and unusable.

Commissioner Runyon said that the 4-3 Planning Commission vote troubles him, it is clear that they had difficulty coming to a decision. He said that there is some specificity due to the fire, but he is concerned that the proposed replacement is so much larger than the original recreational cabin. He asked if it would still be a recreational cabin rather than a year-round dwelling. Mr. Garofoli replied that it would still be a recreational cabin, just a little larger to accommodate the size of his family.

Chair Hege agreed that this is a difficult decision; as the owner has stated, were it not for the fire the cabin would still be in use. He said that he struggles with the fact that it was legal when built and if there were a couple of pieces of paper on file, we would not be here. He said that in the cases where a structure was not legal when built, the County usually requires that it be dismantled before the property can be sold. He said that it is important that we require compliance, but in this case, when the dwelling was placed it was completely legal under the zoning ordinance in place at that time. He said that he wants to make it clear that no one at the County is saying that they don't care about the owner or the circumstances; the Planning Department and Planning Commission are trying to insure compliance with the Code.

Commissioner Kramer observed that the Board has an opportunity now to make this legally established. He said that it has been there for 36 years and under the A-3 zoning it would have been permitted. He said that he went out to look up something recently and found that there were documents missing from a County Planning Department file. He reported that through further investigation he was able to find what he was looking for in another department; that department sent it to Planning to complete their file.

Commissioner Runyon stated that had the Planning Commission vote been 7-0, he might have a different view.

{{{Commissioner Runyon moved to reverse the Wasco County Planning Commission's decision and approve the non-conforming use determination and approve the replacement development with conditions of approval

recommended by the Planning Department to include replacement dwelling and accessory buildings comply with property development standards of the applicable zone (WCLUDO Chapter 3) as well as the required wildfire safety and prevention requirements for all new development (WCLUDO Chapter 10). Commissioner Kramer seconded the motion.

DISCUSSION

Commissioner Kramer stated that he sees this as an opportunity to address an issue in which the dwelling was legal at the time of its placement and was destroyed through a fire that was not anyone's fault. Commissioner Runyon agreed that, that is what makes this unique.

Chair Hege asked Ms. Campbell if she sees any issues heading down this path. Ms. Campbell replied that she agrees that it is up to the Board to interpret the Ordinance. She said that there will always be issues and there is not clear precedent anywhere for this circumstance. It is up to the Board to interpret the Ordinance.

Commissioner Runyon added that the fact that it was a 4-3 vote by a talented Planning Commission gives him pause for thought. It is clear that even they were of mixed views. Ms. Campbell added that this is De novo – starting fresh.

Angie asked for clarification for what makes this unique; what she understands is that they consider the fire to be the unique factor and reminded the Board that there have been several catastrophic fires in recent years and we are likely to see more.

Commissioner Runyon said that the fire is part of what makes it unique combined with the 36 years of existence and the 36 years of paid taxes. Chair Hege added that the A-3 zoning in effect at the time of placement which would have allowed the placement also adds to the uniqueness. Commissioner Runyon agreed that the fact that it would have been approved at the time of placement contributes to the uniqueness of the application. He said that there is a list of things that combine to make it unique.

Chair Hege restated that it has been established that each case must rest on its own merits and will be considered separately through this process. He said that the Board

is not offering direction that if application comes in with fire as an element it is automatically good to go; this entire record establishes its own uniqueness – no other case is likely to be exactly the same. Commissioner Runyon concurred.

Ms. Brewer asked if the Planning Department's interpretation of the non-conforming use policy is going to be altered by this decision. Ms. Campbell asked if we are applying Type 2 verification. Ms. Richter pointed out that Type 2 verification is what Mr. Garofoli applied for and what the Planning Department processed. Ms. Brewer stated that past policy has been that if you get hung up on Type 1 you don't get to move to Type 2.

Commissioner Runyon said that much like the argument at the Gorge Commission that with the economic and the scenic considerations, one may have priority over the other - in truth, they are equal. He said that in this case, we cannot prove with the paper what would have been approved in 1979, we are doing Type 2 because we don't have the paper.

Chair Hege added that there is enough evidence that it would have been approved and while it is unlikely that the permit was issued, we do not know that. We are making the presumption that it did exist. He said that we would expect that applicants would produce that same evidence in the future; if they can't, they can go through this process for a decision. He said that nobody wants to go through this process and will try to produce the necessary documentation. If they can't, they can make their argument to the Planning Commission and if they so choose, can appeal it to the Board of Commissioners; through the record the Board will make a decision.

Chair Hege advised that this is not the end for the applicant, it is the beginning. The applicant will have a lot of work to do which will result in a much safer, compliant development than existed previously.

The motion passed unanimously.}}}

Chair Hege closed the hearing at 3:24 p.m.

Department Request - Planning

Ms. Brewer reminded the Board of the letter (attached) they approved earlier in the day requesting to participate in the Multi-County Code Update Program. She stated that she had been unaware at the time of a second similar required letter for the actual grant application. She stated that there is a match requirement; increased staffing can be used as the local match contribution for streamlining permit procedures to meet economic development goals. She said that she would share the grant application packet with the Board once it is complete.

The Board was in consensus to approve the letter in support of the Technical Assistance Grant Application with permission for Ms. White to apply their signatures electronically.

Chair Hege adjourned the meeting at 3:27 p.m.

Summary of Actions

Motions Passed

- To accept the proposal from Ms. Urness to accept the increased Victims Assistance Grant funding pending the funds arriving and working with the Finance office to ensure it is properly implemented.
- To approve Intergovernmental Agreement #5138 between the State of Oregon and Wasco County.
- To approve Intergovernmental Agreement #5180 between the State of Oregon and Wasco County.
- To approve the Wasco County Compensation Policy to replace all previously adopted compensation policies.
- To approve the Wasco County Performance Management Policy to replace all previously adopted performance management policies.
- To approve the Wasco County Performance Management Policy to replace all previously adopted performance management policies.
- To approve the Wasco County Employee Performance Award Policy.

- To approve switching the Assessor's and Clerk's office locations as recommended by staff with the move to occur the weekend before Christmas with both offices opened for half-days on Friday, December 18th and Monday, December 21st.
- To approve the MCCOG Dial-a-Ride Contract Amendment 1.
- To approve the Personal Services Contract for Restroom and Site Maintenance at Pine Hollow Reservoir with the date correction on page 2 of the contract.
- To allocate up to \$5,000 from the Special Projects budget to move forward toward a solution for the Pine Hollow Recreational Area.
- To approve the Consent Agenda with the correction to the minutes: 9.2.2015 Regular Session Minutes, Resolution 15-010 Approving Franchise Transfer, Franchise Transfer and Consent Agreement.
- To reverse the Wasco County Planning Commission's decision and approve the non-conforming use determination and approve the replacement development with conditions of approval recommended by the Planning Department to include replacement dwelling and accessory buildings comply with property development standards of the applicable zone (WCLUDO Chapter 3) as well as the required wildfire safety and prevention requirements for all new development (WCLUDO Chapter 10).

Consensus

- To have the Sheriff move forward with plans in conjunction with facilities to house the new fingerprint machine in the lobby of the Sheriff's office.
- For Mr. Davis to move forward in the process with Emmert International to have the house at 1915 W. 10th Street, The Dalles, OR removed.

- To sign the letter requesting to participate in the Multi-County Code Project.
- To support Mr. Smith's recommendations proceed with four Title II projects in Wasco County: Barlow noxious weed control, Sportsmans Paradise Thinning, Voodoo Mastication and Hesslan Thinning.
- To approve the letter in support of the Technical Assistance Grant Application with permission for Ms. White to apply their signatures electronically.

WASCO COUNTY BOARD OF COMMISSIONERS

Scott Hege, Commission Chair

Rod Runyon, County Commissioner

Steve Kramer, County Commissioner

DISCUSSION LIST

ACTION AND DISCUSSION ITEMS:

- 1. <u>Victims Assistance Grant</u> Judy Urness
- 2. MCCOG Special Transportation Contract Amendment Kathy White
- 3. <u>Pine Hollow Recreation & Facilities</u> Steve Kramer/Tyler Stone

Discussion Item Victims Assistant Grant

- Staff Memo
- CFA Revised Funding 2015
- VOCA Revised Funding 2015

The County currently receives two non-competitive victim services grants, VOCA and CFA. Both of these grants are up for renewal, as I explained during my last appearance before the Commission on August 5th. After that appearance, I was notified by my grant monitor that both grants would be increased for the 2016-2017 cycle. I have attached the breakdown of increases by county. Wasco County is slated to see an increase of \$23,524 per year. The total we will be receiving is \$74,683 per year for both grants. These monies may not be used to supplant the funds Wasco County has budgeted for the next fiscal year, currently, \$6,935.46.

My proposal for these funds would be to increase my position from .8 FTE to 1 FTE, Nancy will continue to work 2 hours a week for victim services, and this still allows us to hire another assistant advocate for 10 - 15 hours per week. Although, we do not have exact numbers at the moment, I am currently working with Finance and will have those for you by the meeting on September 16^{th} .

I realize grant-dependant positions are not ideal, but I believe this proposal is the best way to serve victims of Wasco County. This is an opportunity for Wasco County to increase and improve victim services, which are mandated by the state.

County	14-15 CFA Allocation	2015-2017 Adjustments	Year 1 CFA Allocation	Year 2 CFA Allocation	Total 2015- 2017 Allocation
Baker	\$17,327.56	\$0.00	\$17,327.56	\$17,327.56	\$34,655.12
Benton	\$56,379.00	\$0.00	\$56,379.00	\$56,379.00	\$112,758.00
City Beaverton	\$34,104.00	\$1,112.00	\$35,216.00	\$35,216.00	\$70,432.00
City Eugene	\$19,564.00	\$1,186.00	\$20,750.00	\$20,750.00	\$41,500.00
Clackamas	\$181,955.00	\$2,613.00	\$184,568.00	\$184,568.00	\$369,136.00
Clatsop	\$34,811.00	\$0.00	\$34,811.00	\$34,811.00	\$69,622.00
Columbia	\$32,046.00	\$916.00	\$32,962.00	\$32,962.00	\$65,924.00
Coos	\$47,343.79	\$432.21	\$47,776.00	\$47,776.00	\$95,552.00
Crook	\$22,617.00	\$0.00	\$22,617.00	\$22,617.00	\$45,234.00
Curry	\$20,982.00	\$1,626.00	\$22,608.00	\$22,608.00	\$45,216.00
Deschutes	\$98,569.00	\$3,411.00	\$101,980.00	\$101,980.00	\$203,960.00
Douglas	\$68,671.68	\$6,357.32	\$75,029.00	\$75,029.00	\$150,058.00
Gilliam	\$11,247.64	\$0.00	\$11,247.64	\$11,247.64	\$22,495.28
Grant	\$13,415.63	\$0.00	\$13,415.63	\$13,415.63	\$26,831.25
Harney	\$13,929.02	\$212.98	\$14,142.00	\$14,142.00	\$28,284.00
Hood River	\$29,863.56	\$0.00	\$29,863.56	\$29,863.56	\$59,727.12
Jackson	\$134,104.00	\$13,994.00	\$148,098.00	\$148,098.00	\$296,196.00
Jefferson	\$21,555.00	\$0.00	\$21,555.00	\$21,555.00	\$43,110.00
Josephine	\$53,366.00	\$710.00	\$54,076.00	\$54,076.00	\$108,152.00
Klamath	\$47,037.68	\$0.00	\$47,037.68	\$47,037.68	\$94,075.36
Lake	\$13,431.16	\$0.00	\$13,431.16	\$13,431.16	\$26,862.32
Lane	\$194,155.00	\$11,766.00	\$205,921.00	\$205,921.00	\$411,842.00
Lincoln	\$38,566.22	\$234.78	\$38,801.00	\$38,801.00	\$77,602.00
Linn	\$82,307.00	\$2,915.00	\$85,222.00	\$85,222.00	\$170,444.00
Malheur	\$32,924.64	\$0.00	\$32,924.64	\$32,924.64	\$65,849.28
Marion	\$190,660.00	\$0.00	\$190,660.00	\$190,660.00	\$381,320.00
Morrow	\$15,852.96	\$0.00	\$15,852.96		\$31,705.92
Multnomah	\$436,797.00	\$33,302.00	\$470,099.00	\$470,099.00	\$940,198.00
Polk	\$53,670.00	\$490.00	\$54,160.00	\$54,160.00	\$108,320.00
Sherman	\$11,218.70	\$200.30	\$11,419.00	\$11,419.00	\$22,838.00
Tillamook	\$23,275.00	\$0.00	\$23,275.00	\$23,275.00	\$46,550.00
Umatilla	\$58,403.00	\$2,317.00	\$60,720.00	\$60,720.00	\$121,440.00
Union	\$33,193.00	\$0.00	\$33,193.00	\$33,193.00	\$66,386.00
Wallowa	\$13,138.10	\$0.00	\$13,138.10	\$13,138.10	\$26,276.21
Wasco	\$24,557.00	\$739.00	\$25,296.00	\$25,296.00	\$50,592.00
Washington	\$220,707.00	\$7,199.00	\$227,906.00	\$227,906.00	\$455,812.00
Wheeler	\$10,806.83	\$0.00	\$10,806.83	\$10,806.83	\$21,613.66
Yamhill	\$60,028.00	\$0.00	\$60,028.00	\$60,028.00	\$120,056.00
TOTAL	\$2,472,579.17	\$91,733.59	\$2,564,312.76	\$2,564,312.76	\$5,128,625.51

PROGRAM		Maximum Original Year 1 Allocation		Maximum Year 1 VOCA Increase		Maximum Year 1 Increased Allocation		Maximum Year 2 Increased Allocation		Total Match Amount		Total 15-17 Allocation (includes Match)	
Baker County District Attorney	\$	22,586.00	\$	16,677.00	\$	39,263.00	\$	39,263.00	\$	19,631.50	\$	98,157.50	
Benton County District Attorney	\$	39,805.00	\$	42,358.00	\$	82,163.00	\$	82,163.00	\$	41,081.50	\$	205,407.50	
Clackamas County District Attorney	\$	95,225.00	\$	124,796.00	\$	220,021.00	\$	220,021.00	\$	110,010.50	\$	550,052.50	
Clatsop County District Attorney	\$	30,407.00	\$	28,364.00	\$	58,771.00	\$	58,771.00	\$	29,385.50	\$	146,927.50	
Columbia County District Attorney	\$	29,952.00	\$	27,648.00	\$	57,600.00	\$	57,600.00	\$	28,800.00	\$	144,000.00	
Coos County District Attorney	\$	36,386.00	\$	37,085.00	\$	73,471.00	\$	73,471.00	\$	36,735.50	\$	183,677.50	
Crook County District Attorney	\$	25,208.00	\$	20,676.00	\$	45,884.00	\$	45,884.00	\$	22,942.00	\$	114,710.00	
Curry County District Attorney	\$	25,466.00	\$	21,041.00	\$	46,507.00	\$	46,507.00	\$	23,253.50	\$	116,267.50	
Deschutes County District Attorney	\$	59,463.00	\$	72,079.00	\$	131,542.00	\$	131,542.00	\$	65,771.00	\$	328,855.00	
Douglas County District Attorney	\$	48,153.00	\$	54,515.00	\$	102,668.00	\$	102,668.00	\$	51,334.00	\$	256,670.00	
Gilliam County District Attorney	\$	10,497.00	\$	7,239.00	\$	17,736.00	\$	17,736.00	\$	8,868.00	\$	44,340.00	
Grant County District Attorney	\$	21,362.00	\$	14,990.00	\$	36,352.00	\$	36,352.00	\$	18,176.00	\$	90,880.00	
Harney County District Attorney	\$	21,797.00	\$	15,640.00	\$	37,437.00	\$	37,437.00	\$	18,718.50	\$	93,592.50	
Hood River County District Attorney	\$	24,382.00	\$	19,545.00	\$	43,927.00	\$	43,927.00	\$	21,963.50	\$	109,817.50	
Jackson County District Attorney	\$	79,644.00	\$	101,305.00	\$	180,949.00	\$	180,949.00	\$	90,474.50	\$	452,372.50	
Jefferson County District Attorney	\$	24,916.00	\$	20,261.00	\$	45,177.00	\$	45,177.00	\$	22,588.50	\$	112,942.50	
Josephine County District Attorney	\$	39,102.00	\$	41,118.00	\$	80,220.00	\$	80,220.00	\$	40,110.00	\$	200,550.00	
Klamath County District Attorney	\$	34,159.00	\$	33,791.00	\$	67,950.00	\$	67,950.00	\$	33,975.00	\$	169,875.00	
Lake County District Attorney	\$	21,442.00	\$	15,126.00	\$	36,568.00	\$	36,568.00	\$	18,284.00	\$	91,420.00	
Lane County District Attorney	\$	113,688.00	\$	151,440.00	\$	265,128.00	\$	265,128.00	\$	132,564.00	\$	662,820.00	
Lincoln County District Attorney	\$	32,456.00	\$	31,400.00	\$	63,856.00	\$	63,856.00	\$	31,928.00	\$	159,640.00	
Linn County District Attorney	\$	52,506.00	\$	61,082.00	\$	113,588.00	\$	113,588.00	\$	56,794.00	\$	283,970.00	
Malheur County District Attorney	\$	29,086.00	\$	26,370.00	\$	55,456.00	\$	55,456.00	\$	27,728.00	\$	138,640.00	
Marion County District Attorney	\$	97,632.00	\$	127,932.00	\$	225,564.00	\$	225,564.00	\$	112,782.00	\$	563,910.00	
Morrow County District Attorney	\$	22,405.00	\$	16,555.00	\$	38,960.00	\$	38,960.00	\$	19,480.00	\$	97,400.00	
Multnomah County District Attorney	\$	218,526.00	\$	307,396.00	\$	525,922.00	\$	525,922.00	\$	262,961.00	\$	1,314,805.00	
Polk County District Attorney	\$	39,086.00	\$	41,225.00	\$	80,311.00	\$	80,311.00	\$	40,155.50	\$	200,777.50	
Sherman County District Attorney	\$	10,614.00	\$	7,406.00	\$	18,020.00	\$	18,020.00	\$	9,010.00	\$	45,050.00	
Tillamook County District Attorney	\$	25,751.00	\$	21,470.00	\$	47,221.00	\$	47,221.00	\$	23,610.50	\$	118,052.50	

Umatilla County District Attorney	\$	41,946.00	\$	45,393.00	\$	87,339.00	\$	87,339.00	\$	43,669.50	\$	218,347.50
Union County District Attorney	\$	25,872.00	\$	21,662.00	\$	47,534.00	\$	47,534.00	\$	23,767.00	\$	118,835.00
Wallowa County District Attorney	\$	21,057.00	\$	14,551.00	\$	35,608.00	\$	35,608.00	\$	17,804.00	\$	89,020.00
Wasco County District Attorney	\$	26,602.00	\$	22,785.00	\$	49,387.00	\$	49,387.00	\$	24,693.50	\$	123,467.50
Washington County District Attorney	\$	128,877.00	\$	175,303.00	\$	304,180.00	\$	304,180.00	\$	152,090.00	\$	760,450.00
Wheeler County District Attorney	\$	10,248.00	\$	6,712.00	\$	16,960.00	\$	16,960.00	\$	8,480.00	\$	42,400.00
Yamhill County District Attorney	\$	41,519.00	\$	44,883.00	\$	86,402.00	\$	86,402.00	\$	43,201.00	\$	216,005.00
TOTAL	\$:	1,627,823.00	\$:	1,837,819.00	\$3	3,465,642.00	\$3	3,465,642.00	\$1	1,732,821.00	\$:	8,664,105.00

Discussion Item MCCOG Special Transportation Contract Amendment

- Memo
- Contract Amendment

MEMORANDUM

TO: BOARD OF COUNTY COMMISSIONERS

FROM: KATHY WHITE

SUBJECT: MCCOG PURCHASE OF SERVICES CONTRACT AMENDMENT

DATE: 9/11/2015

BACKGROUND INFORMATION

On August 20, 2015 Wasco County's Special Transportation Program, which is contracted to MCCOG, was reviewed by Oregon's Department of Transportation. Wasco County did very well with only one High Priority Finding: Federal clauses must be included in the sub-agreement with MCCOG for Purchase of Service Agreement. This amended Purchase of Services Contract Amendment includes the language being required by ODOT; there have been no other changes to the contract.

INTERGOVERNMENTAL AGREEMENT

FOR THE

WASCO COUNTY DIAL-A-RIDE OPERATIONS (Special Transportation Operations)

Amendment 1

This Agreement, effective when signed by all parties, is made and entered into between Mid-Columbia Council of Governments, 1113 Kelly Avenue, The Dalles, OR 97058, an ORS Chapter 190 entity, hereinafter referred to as MCCOG, and Wasco County, a political subdivision of the State of Oregon, 511 Washington Street, The Dalles, OR 97058, hereinafter referred to as County. This Agreement is for the provision of Wasco County Dial-A-Ride transportation services.

- 1. <u>Effective Date.</u> This Agreement shall be effective as of July 1, 2015 or at which time both Parties have signed this Agreement. This is known as the effective Agreement date. No services shall be performed prior to the effective Agreement date.
- General Description of Work. This Agreement is for services generally described as Wasco County Dial-a-Ride operations (Special Transportation Operations), and more particularly described in Exhibit A, Scope of Work.
- 3. **Reimbursement.** County agrees to provide funding to MCCOG for costs of performing the Scope of Work as specified in Exhibit A. Specific funding amounts and payment schedule are specified in Exhibit B, Payment for Work.
 - In the event services are required beyond those specified in the Scope of Work, MCCOG shall submit a revised fee estimate for such services, and an Agreement modification shall be negotiated and approved by all parties prior to any effort being expended on such services.
- 4. **Exhibits.** The following exhibits are made part of this Agreement:

Exhibit A— Scope of Work
Exhibit B — Payment for Work
Exhibit C — Insurance

Exhibit D – ODOT Agreement Number #30775 with Wasco County Exhibit E – Federal Requirements and Third Party Contract Clauses

5. <u>Execution of Work.</u> MCCOG shall at all times carry on the work diligently, without delay, and punctually fulfill all requirements herein. The passage of the Agreement expiration date shall not extinguish, prejudice, or limit either party's right to enforce this Agreement with respect to any default or defect in performance that has not been cured.

This Agreement outlines the entire relationship between MCCOG and the County for purposes stated in Exhibit A, Scope of Work.

- 6. Books and Records. MCCOG shall keep proper and complete books of record and account and maintain all fiscal records related to this Agreement and the project in accordance with generally accepted accounting principles, generally accepted governmental accounting standards and state minimum standards for audits of municipal corporations. MCCOG acknowledges and agrees that the County and their duly authorized representatives shall have access to the books, documents, papers, and records of MCCOG which are directly pertinent to this specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after the Agreement expiration date. Copies of applicable records shall be made available upon request. Payment for reasonable costs of copies is reimbursable by the County. If for any reason any part of this Agreement is involved in litigation, MCCOG shall retain all pertinent records for not less than three years or until all litigation is resolved, whichever is longer. Full access will be provided to MCCOG and to its duly authorized representatives in preparation for and during litigation.
- 7. Termination, Administrative, Contractual or Legal Remedies. This Agreement may be terminated by written mutual consent of both parties. If this Agreement is terminated prior to the end of the Agreement period, MCCOG shall be reimbursed for the project tasks completed through termination date as outlined in the Payment for Work, Exhibit B. If one party is suspected to be in violation of this Agreement, the non-violating party shall notify the other party in writing of the circumstances leading to this conclusion. The Agreement will be automatically terminated if the violation has not been remedied.

This Agreement may be terminated by MCCOG or the County for any reason with 180 days written notice.

All claims, counter claims, disputes and other matters in question between the County and MCCOG arising out of, or relating to this Agreement or the breach of it will be decided, if the parties mutually agree, by arbitration, mediation, or other alternative dispute resolution mechanism, or in a court of competent jurisdiction with the State of Oregon and Wasco County. In the event of any dispute arising from this Agreement, each party shall be required to pay its own separately incurred attorney's fees, expenses, and court costs, including arbitration, trial

and appeal.

- 8. Indemnity and Insurance. (a) MCCOG agrees to indemnify, defend, and hold harmless the County from all claims, lawsuits and actions of whatever nature brought against those parties which arise from MCCOG's performance or omissions under this Agreement. MCCOG shall not be required to indemnify the County for any such liability arising out of negligent acts or omissions of the County, their employees or representatives. This provision is subject to the limitations, if applicable, set forth in Article XI, Section 10 of the Oregon Constitution and in the Oregon Tort Claims Act, ORS 30.260 to 30.300.
 - (b) MCCOG shall provide insurance as required in Exhibit C, Insurance, naming County as an additional insured, and furnishing County with written proof of insurance on or before commencement of this Agreement.
- 9. <u>Successors & Assignments.</u> The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns. After the original Agreement is executed, MCCOG shall not enter into any new sub agreements for any work scheduled under this Agreement or assign or transfer any of its interest in this Agreement without prior written consent of the County.

10. Compliance with Applicable Laws.

- (a) MCCOG agrees to comply with all federal, state, and local laws, ordinances, and regulations applicable to this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.
- (b) MCCOG shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- (c) This Agreement is based on and is subject to Oregon Revised Statutes, Oregon Administrative Rules, and Federal Transit Administration Regulations such as those contained in ORS 323.455, ORS 391.830 and FTA Circular 9040.1F including all associated references and citations.
- 11. Federal Transit Administration Annual Certifications and Assurances. MCCOG agrees to comply with all applicable Federal Transit Administration Certifications and Assurances. Furthermore, MCCOG will submit the Annual Certifications and Assurances to ODOT on an annual basis and include all certifications required by 49 U.S.C. 5310.

12. Audit Requirements.

a. If MCCOG receives Federal funds in excess of \$500,000, MCCOG agrees to comply with an audit conducted in accordance with the Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments, Non-profit Institutions.* MCCOG, if affected by this requirement, shall at its own expense, submit to State Public Transit Division, 555 13th Street NE, Suite 3, Salem, OR 97301-4179, a copy of it's a-133 annual

audit covering the funds expended under this Agreement.

- b. If MCCOG receives less than \$500,000 in Federal funds, MCCOG shall, at its own expense, submit to State Public Transit Division, 555 13th Street NE, Suite 3, Salem, OR 97301-4179, a copy of it's a-133 annual audit covering the funds expended under this Agreement and a copy of the management letter and any report that accompanies the annual audit covering the funds expended under this Agreement.
- 13. Other Federal Requirements. One of the principles of contracting with Federal funds received indirectly from the Federal Transit Administration (FTA) is recognition that, as a condition of receiving the funds, certain specific requirements must be met not only by the County, but also by MCCOG. To the extent applicable, Federal requirements extend to third party contractors and their contracts at every tier. The specific requirements for specific grant funds are found in the Master Agreement that is signed and attested to by the State. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from State by calling (503) 986-3300 or accessing the FTA website: www.fta.dot.gov.

The following is not a complete list of Federal requirements. Rather it is a summary of various primary requirements associated with the type of transaction covered by this Agreement and the type of funds described in Exhibit D.

- a. MCCOG shall comply with Title VI of the Civil rights Act of 1964 (78 State 252, 42 U.S.C. § 2000d) and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A). MCCOG shall exclude no person on the grounds of race, religion, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. MCCOG will report to State on at least an annual basis the following information: any active lawsuits or complaints, including dates, summary of allegation, status of lawsuit or complaint including whether the parties entered into a consent decree.
- b. MCCOG shall comply with FTA regulations in Title 49 CFR 27 *Nondiscrimination on the Basis of Disability in Programs or activities Receiving Federal Financial Assistance* which implements the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, 49 CFR 37, and 49 CFR 38.
- c. MCCOG has, to the maximum extent feasible, coordinated with other transportation providers and users, including social service agencies authorized to purchase transit service.
- d. MCCOG will correct any condition which State or FTA believes "creates a serious hazard of death or injury" in accordance with Section 22 of the Federal Transit Act, as

amended.

e. MCCOG will comply with the applicable provisions of 49 CFR 26 related to Disadvantaged Business Enterprises and report quarterly to the State. Each contract MCCOG signs with a subcontractor must include the following assurance:

The contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR 26 in the award and administration of State assisted contracts. Failure by the contractor to carry out these terms is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the Recipient deems appropriate.

- f. MCCOG and sub-contractors receiving in excess of \$100,000 in Federal funds must certify to State that they have not and will not use Federal funds to pay for influencing or attempting to influence an office or employee of any Federal Department or Agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any Federal grant, cooperative agreement or any other Federal award. If nonfederal funds have been used to support lobbying activities in connection with the Project, MCCOG shall complete Standard Form LLL, Disclosure Form to Report Lobbying and submit the form to the State at the end of each calendar quarter in which there occurs an event which requires disclosure. Restrictions on lobbying do not apply to influencing policy decisions. Examples of prohibited activities include seeking support for a particular application or bid and seeking a congressional earmark.
- 14. <u>Severability.</u> The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
- 15. <u>Force Majeure.</u> Neither party shall be held responsible for delay or default caused by fire, riots, acts of God, and war which is beyond such party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause or delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.
- 16. <u>Waiver.</u> The failure of the County to enforce any provision of this Agreement shall not constitute a waiver by the County of that or any other provision.
- 17. <u>Other Provisions.</u> MCCOG shall protect and indemnify County against any payroll taxes or contributions imposed with respect to any employees of MCCOG by any applicable law dealing

with pensions, unemployment compensation, accident compensation, health insurance, and related subjects. MCCOG shall at MCCOG's own cost and expense insure each person employed by MCCOG the compensation provided for by law with respect to worker's compensation and employer's liability insurance.

18. <u>Funds Available.</u> In the event the Board of Commissioners reduces, changes, eliminates, or otherwise modifies the funding for this contract, or if funding from federal, state or other sources is not obtained and continued at levels sufficient to allow for the reimbursements set forth in this Agreement, the County may terminate this contract in whole or in part, effective upon delivery of written notice to MCCOG, or at such later date as may be established by the County.

THIS AGREEMENT, WHICH INCLUDES ALL ATTACHED EXHIBITS, CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. THE TERMS OF THIS AGREEMENT SHALL NOT BE WAIVED, ALTERED, MODIFIED, SUPPLEMENTED, OR AMENDED, IN ANY MANNER WHATSOEVER, EXCEPT BY WRITTEN INSTRUMENT. SUCH WAIVER, ALTERATION, MODIFICATION, SUPPLEMENTATION, OR AMENDMENT, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN, AND SHALL BE VALID AND BINDING ONLY IF IT IS SIGNED BY ALL PARTIES TO THIS AGREEMENT. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, REGARDING THIS AGREEMENT EXCEPT AS SPECIFIED OR REFERENCED HEREIN. COUNTY, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

MID-COLUMBIA COUNCIL OF GOVERNMENTS By _______ John Arens, Executive Director Date _______ APPROVED AS TO FORM: WASCO COUNTY By ______ By _____ Scott C. Hege, Commission Chair Kristen Campbell By ______ Wasco County Counsel Rod L. Runyon, Commissioner By ______ Steve Kramer, Commissioner

EXHIBIT A

SCOPE OF WORK

Task 1: Operations of Dial-a-Ride.

MCCOG will provide demand responsive Dial-a-Ride transportation services in Wasco County for older adults and persons with disabilities.

The current "demand response" system will be maintained. Rides will be scheduled in advance. Service is available for any purpose, services will not be prioritized. Service hours will be Monday through Friday, 8:00 AM to 5:00 PM, excluding MCCOG recognized holidays. The service area is Wasco County, with the majority of the service being available in the vicinity of the City of The Dalles. Scheduling phones will be available Monday through Friday, 8:00 AM through 5:00 PM, excluding MCCOG recognized holidays.

MCCOG will support the operation of human service transportation provided by various agencies in Wasco County under the authority of MCCOG.

<u>Task 2: Vehicle Ownership, Maintenance, and other Capital Costs.</u> MCCOG will be responsible for the provision of vehicles, fuel, insurance and maintenance costs.

EXHIBIT B

MCCOG COMPENSATION

B.1 Basis of Compensation. The County shall compensate MCCOG for the services provided as described in the Scope of Services, as defined in Exhibit A. The expected source of funding for these funds is a biannual "FTA Section 5310 Program" grant to the County by the Oregon Department of Transportation.

The compensation to be paid for these services to MCCOG shall be based on a reimbursement cost of \$7.00 per ride for one-way rides provided to persons with disabilities and seniors. This reimbursement shall not exceed \$162,184 dollars for the period of July 1, 2015 through June 30, 2017. It is also understood by both parties that the Oregon of Department of Transportation requires 10.27% matching funds for this service which MCCOG will provide (\$18,563).

MCCOG will provide all of the information necessary for the required quarterly reports to be submitted to the State within 30 days of the end of the previous quarter.

B.2 Payment for Services. MCCOG shall submit quarterly billing invoices to the County based on the actual rides billed. MCCOG will only be compensated for rides incurred during Agreement period.

Invoices shall be submitted to the County on or before the last day of the month for services incurred during the previous quarter. The County shall be allowed thirty (30) days from the date the invoice is received to reimburse MCCOG, provided that the work performed is acceptable to the County. Upon receipt of the invoice, the County shall review the documentation submitted and may request additional information. It the County does not request additional information within fifteen (15) days after receipt of the invoice, the invoice shall be deemed approved and payment of moneys shall be made. In the event the County requests additional information from MCCOG, the County shall have fifteen (15) days from the date of receipt of the additional information to review the information. If MCCOG has provided the information requested, the invoice shall be deemed approved and payment of moneys shall be made. In the event MCCOG does not provide the information requested within thirty (30) days, the County may deny the invoice or approve only the portion of the invoice which has been documented satisfactorily.

B.3 Changes in the Scope of Project. The County and MCCOG agree in accordance with the terms and conditions of this Agreement that if the scope of the project is changed materially, MCCOG shall request in writing, before services are provided, an appropriate change in the amount of compensation.

B.4 Suspension or Abandonment of Project. If the Project is suspended or abandoned, in whole or part for more than 45 days, MCCOG shall be compensated for all services performed prior to receipt of written notice from the County of such suspension or abandonment. If the Project is resumed after

being suspended for more than 45 days, MCCOG's compensation shall be reviewed with the County and an adjustment made for the cost of restarting the project before work continues.

EXHIBIT C

INSURANCE PROVISIONS

During the term of this Agreement, MCCOG shall maintain in force at its own expense, each insurance noted below:

- <u>C.1 Worker's compensation.</u> Required of contractors with one or more workers, as defined by ORS 656.027. Worker's Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon worker's compensation coverage for all their subject workers.
- <u>C.2 Employer's Liability.</u> Employer's liability insurance with a combined single limit or the equivalent of not less than \$500,000 for each claim, incident or occurrence. This is to cover damages caused by error, omission, or negligent acts related to the professional services provided under this Agreement.
- **C.3 General Liability.** Broad form comprehensive general liability insurance coverage to be equal to or greater than those limits prescribed under ORS 30.272.
- <u>C.4 Automobile Liability.</u> Automobile bodily injury and property damage liability insurance to be equal to or greater than those limits prescribed under ORS 30.272 to cover all vehicles that will be used to provide services through this Agreement.

There shall be no cancellation, material change, reduction of limits, or intent not to renew the insurance coverage(s) without 30 days written notice from MCCOG's insurer(s) to the County.

Exhibit

E

FEDERAL REGULATIONS & REQUIRED THIRD-PARTY CONTRACT CLAUSES

ALL OR PART OF THIS CONTRACT IS FEDERALLY FUNDED. CONTRACTOR shall comply with the following applicable federal regulations in addition to all other specifications, terms and conditions of this Invitation for Bid or Request for Proposal. As used in these regulations,

6. ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321et

seq.

49 CPR Part

Energy Conservation - The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

> 7. CLEAN WATER REQUIREMENTS 33 U.S.C.

> > 1251

Clean \Vater-(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et - The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

> **LOBBYING** 31 **u.s.c.**

> > 1352

49 CPR Part

19

49 CPR Part

20

Byrd Anti-Lobbying Amendment, 31U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] -Contractors who apply or bid for an award of\$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer

or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal

contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31

U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

11. ACCESS TO RECORDS AND REPORTS 49 U.S.C. 5325 18 CFR 18.36 (i) 49 CFR 633.17

Access to Records - The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purpose of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at

49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311

- 2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorize representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
- 3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any other duly authorized representatives with access to any books, documents, papers and records of the Contractor which are directly pertinent to the contract for the purposes of making audits, examinations, excerpts and transcriptions.

- 4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
- 5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- 6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(1)(11).
- 7. FTA does not require the inclusion of these requirements in subcontracts.

12. FEDERAL CHANGES 49 CFR Part 18

Federal Changes- Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

14. CLEAN
AIR
42 U.S.C. 7401et
seq
40 CFR
15.61
49 CFR Part
18

Clean Air- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

17. CONTRACT WORK HOURS AND SAFETY STANDARDS

ACT
40 USC 3701(b)(l)(B)(iii) and
(b)(2)
29 CFR
5.2(h)
29 CFR
S.S(b)
49 CFR
18.36(i)(6)

- (1) Overtime requirements No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages- WASCO COUNTY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

19. NO GOVERNMENT OBLIGATION TO THIRD

<u>PARTIES</u> No Obligation by the Federal Government.

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by

the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

31U.S.C. 3801et seq. 49 CFR Part 3118 U.S.C. 1001 49 U.S.C. 5307

Program Fraud and False or Fraudulent Statements or Related Acts.

- (1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- (2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- (3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

21. TERMINATION 49 U.S.C. Part18 FTA Circular 4220.1F

- a. Termination for Convenience (General Provision) WASCO COUNTY may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to WASCO COUNTY to be paid the Contractor. If the Contractor has any property in its possession belonging to WASCO COUNTY, the Contractor will account for the same, and dispose of it in the manner core directs.
- b. Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, core may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by WASCO COUNTY that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, WASCO COUNTY, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) WASCO COUNTY in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten (10) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to WASCO COUNTY's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days] after receipt by Contractor of written notice from core setting forth the nature of said breach or default, core shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude core from also pursuing all available remedies against Contractor and its sureties for said breach or default.

- d. Waiver of Remedies for any Breach In the event that WASCO COUNTY elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by core shall not limit WASCO COUNTY's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
- e. Termination for Convenience (Professional or Transit Service Contracts) WASCO COUNTY, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
- f. Termination for Default (Supplies and Service) If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, core may terminate this contract for default. Wasco County shall terminate by delivering to the Contractor a Notice of Termination specifying the

nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

g. Termination for Default (Transportation Services) If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, core may terminate this contract for default. WASCO COUNTY shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of WASCO COUNTY, protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and core shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of WASCO COUNTY.

h. Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, WASCO COUNTY may terminate this contract for default. WASCO COUNTY shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and compete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor did the Contractor charge with damages under this clause if-

- 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
- 2. The Contractor, within [10] days from the beginning of any delay, notifies WASCO COUNTY in writing of the causes of delay. If in the judgment of WASCO COUNTY, the delay is excusable, the

time for completing the work shall be extended. The judgment of WASCO COUNTY shall be final and conclusive on the parties, but subject to appeal under the Disputes Clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient.

i. Termination for Convenience or Default (Architect and Engineering) WASCO COUNTY may terminate this contract in whole or in part, for the Recipient's convenience or because of the failure of the Contractor to fulfill the contract obligations. WASCO COUNTY shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the Recipient, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed Services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Recipient may complete the work by contact or otherwise and the Contractor shall be liable for any additional cost incurred by the Recipient.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

j. Termination for Convenience of Default (Cost-Type Contracts) WASCO COUNTY may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall state whether the termination is for convenience of WASCO COUNTY or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from WASCO COUNTY, or property supplied to the Contractor by WASCO COUNTY. If the termination is for default, WASCO COUNTY may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to WASCO COUNTY and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of WASCO COUNTY, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, WASCO COUNTY determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, WASCO COUNTY, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

22. GOVERNMENT-WIDE DEBARMENT AND

SUSPENSION Suspension and Debarment

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by WASCO COUNTY. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to WASCO COUNTY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

23. PRIVACY <u>ACT</u> 5 U.S.C.

Contracts Involving Federal Privacy Act Requirements -The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

- (1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,
- 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
- (2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

24. CIVIL RIGHTS REQUIREMENTS 29 U.S.C. § 623,42 U.S.C. § 2000 42 U.S.C. § 6102, 42 U.S.C. §
12112
42 U.S.C. § 12132,49 U.S.C. §
5332
29 CFR Part 1630, 41CFR Parts 60 et seq.

Civil Rights - The following requirements apply to the underlying contract:

- (1) Nondiscrimination- In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- (2) <u>Equal Employment Opportunity</u>-The following equal employment opportunity requirements apply to the underlying contract
- (a) Race, Color, Creed, National Origin. Sex In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- (b) <u>Age</u> In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- (c) <u>Disabilities</u> In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

25. BREACHES AND DISPUTE RESOLUTION

49 CFR Part 18 FTA Circular 4220.1F

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by WASCO COUNTY's Transportation Manager. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to WASCO COUNTY's Transportation Manager. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of WASCO COUNTY's Transportation

Manager shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute- Unless otherwise directed by WASCO COUNTY, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between WASCO COUNTY and the Contractor arising out of or relating to this contract or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which WASCO COUNTY is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available there under shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by WASCO COUNTY or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach there under, except as may be specifically agreed in writing.

28. DISADVANTAGED BUSINESS ENTERPRISE

(DBE) 49 CFR Part 26

Disadvantaged Business Enterprises

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, -Part 26,

Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. A separate contract goal has not been established for this procurement.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as WASCO COUNTY deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).

30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS FTA Circular 4220.1F

Incorporation of Federal Transit Administration (FTA) Terms -The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any WASCO COUNTY requests which would cause WASCO COUNTY to be in violation of the FTA terms and conditions.

31. DRUG AND ALCOHOL TESTING

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Oregon, or WASCO COUNTY, to inspect the facilities and records associated with the implementation of the chug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 before July 1st and to submit the Management Information System (MIS) reports before October 1" of each year to the Transportation Business Administrator, 1250 NE Bear Creek Rd., Bend, OR 97701. (To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

Discussion Item Pine Hollow Recreation & Facilities

- No documents have been submitted for this item
 - RETURN TO SENDER

WASCO COUNTY BOARD OF COMMISSIONERS REGULAR SESSION SEPTEMBER 16, 2015

CONSENT AGENDA

- 1. <u>9.2.2015 Regular Session Minutes</u>
- 2. <u>Franchise Transfer</u>

Consent Agenda Item Minutes

o <u>9.2.2015 Minutes</u>



WASCO COUNTY BOARD OF COMMISSIONERS REGULAR SESSION SEPTEMBER 2, 2015

PRESENT: Scott Hege, Commission Chair

Rod Runyon, County Commissioner

Steve Kramer, County Commissioner

STAFF: Tyler Stone, Administrative Officer

Kathy White, Executive Assistant

At 9:00 a.m. Chair Hege opened the Regular Session of the Board of Commissioners with the Pledge of Allegiance.

Ms. White asked to add a Wasco County Forest Collaborative appointment and upcoming Town Halls to the Discussion List.

Ms. White introduced Kary Holloway to the Board. Ms. Holloway is the new Office Manager for Administrative Services.

Discussion List – Youth Think Marketing Contract

Youth Think Coordinator Debby Jones stated that Linda Griswold has been working with Youth Think for seven years; this is an annual contract with her for marketing services. She went on to say that the only change in the contract is to the amount which is tied to available grant funding.

{{{Commissioner Kramer moved to approve the Marketing Consultant grant contract between Wasco County and Linda Griswold. Commissioner Runyon seconded the motion which passed unanimously.}}}

WASCO COUNTY BOARD OF COMMISSIONERS REGULAR SESSION SEPTEMBER 2, 2015 PAGE 2

Chair Hege asked if the scope of the contract has changed over the years. Ms. Jones responded that the scope remains the same but the strategy has become more refined and targeted.

Chair Hege asked if Youth Think is still conducting Challenge Day. Ms. Jones replied that they do not want to violate copyright but are doing something similar with changes that have made it more acceptable to the schools participating in the program.

Discussion List - Youth Think Prevention Agreement with MCCFL

Ms. Jones explained that every two years Mid-Columbia Center for Living receives funding through the State AD70 grant which is tied to a federal block grant. She stated that Wasco is a minimum-grant county receiving \$61,000. The funding comes into MCCFL which passes it through to Youth Think to do the work. She said that the contract usually comes with attachments outlining the biennial plan; however, three have been changes to the state format and system for data entry and they have been given until the end of September to submit their plan. Ms. Jones observed that the changes are good – more outcome-based and informational. She said that the contract will be submitted without the plan which will follow by the end of the month. Ms. Jones stated that she would come back to the Board with the plan when it is ready.

{{{Commissioner Runyon moved to approve the 2015-2017 Prevention Agreement with Mid-Columbia Center for Living. Commissioner Kramer seconded the motion which passed unanimously.}}}

Ms. Jones stated that the Youth Think Board is meeting to talk about the marijuana legislation and may be able to offer some support for that discussion. She invited the Commissioners to join their board meeting at 5:00 p.m. tomorrow. She added that she has listened to the Oregon Liquor License meetings regarding this issue and believes she has the most current information.

Departments - Planning

Planning Director Angie Brewer introduced the Board to recently-hired Senior Planner Dustin Nilson who moved here from Chicago to take the position. Mr.

WASCO COUNTY BOARD OF COMMISSIONERS REGULAR SESSION SEPTEMBER 2, 2015 PAGE 3

Nilson has 15 years of experience in his field. Mr. Nilson said that there is a big mission ahead and he appreciates the Board's support.

Haystack Broadcasting Reporter Rodger Nichols said that he attended the Museum Commission meeting and learned that they had received a water shut-off notice.

Interim Finance Director Debbie Smith-Wagar said that there have been a lot of staffing changes over the last couple of months with corresponding shifts in duties and training time. She reported that the water bills had gotten caught in the transition and not made it to the proper desk in time to meet the billing due date. She went on to say that when Finance learned of the issue, she made sure that a check was issued and hand-delivered to the City that day. She reported that the water bills have now been calendared so that the due date will not be missed.

Public Comment - Marijuana/Public Health

Widge Johnson of The Dalles said that she had missed the last meeting but had heard that there was some discussion about marijuana growing and water usage. She said that she had tried to get some information on how much water Google uses at their server site but was unable to do so; the information is guarded as a trade secret. She said that if water usage is not an issue for Google but is an issue for marijuana, she observed that the real issue is probably not water but the marijuana. She said that she hopes the Board will invite Dr. McLennan to join the conversation.

Ms. Johnson went on to say that in January the Board began a process to deal with the Public Health issue. She said she had expected to see some public hearings by now to update the citizens on the progress of the work.

Chair Hege replied that there are two Town Halls scheduled to hear from the public regarding the marijuana legislations – 6:00 p.m., September 17th in Dufur and 5:30 p.m., September 21st in Mosier. He stated that because Wasco County's vote was less than 55% against Measure 91, we can only temporarily opt out; the Board is seeking public input on the issue. He continued by saying he had expressed concern for the water rights issues that would be raised with the level of water usage necessary for marijuana grows. Wayne Lease noted that Klickitat County, Washington has placed a moratorium on grows due to concerns about water usage. He stated that Jake Anderson is doing a study on the water issue; marijuana grows use a lot of power and

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water.

Mr. Stone stated that the County is still working toward Public Health; however, it is going more slowly than hoped. He said that we are still waiting for data from the Health Department and we are looking at bringing in a facilitator to help with the process. He reported that there are other counties doing work toward addressing the changes in health care as it relates to Public Health; Wasco County wants to look at the issue more broadly. He stated that there is a facilitator coming in next week to interview.

Ms. Johnson asked when there will be public input. Chair Hege responded that we are months behind where we hoped to be but the County is still committed to a process that will include public participation.

Public Comment - MCCOG

Master Electrician Wayne Lease stated that he has studied the MCCOG bylaws. He said that MCCOG was formed in 1979 but there were no articles of agreement until 2009 – one year after they assumed Building Codes. He noted that Article16 stated that indebtedness incurred remains the responsibility of members voting for the debt. He said that the Secretary/Treasurer is responsible for finances and should not have to go to the Chair to get that information. He pointed out that if any member misses three consecutive meetings, they can be dismissed from the Board. He stated that the bylaws do not supersede the law.

Mr. Lease added that the local school district has not had anyone in an apprenticeship program; there are over 100 available and they should look into that.

Public Hearing – Zoning Map Amendment

At 9:30 a.m. Chair Hege opened a public hearing to consider a zoning map amendment (see attached script).

Chair Hege asked if any Board member wished to disqualify themselves for any personal or financial interest in this matter. There were none.

Chair Hege asked if any Board member wished to report any significant ex parte or pre-hearing contacts. There were none.

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Chair Hege asked if any member of the audience wished to challenge the right of any Board member to hear this matter. There were none.

Chair Hege asked if any member of the audience wished to question the jurisdiction of the Board to act on behalf of Wasco County in this matter. There were none.

Chair Hege asked Associate Planner Dawn Baird to present her report.

Ms. Baird reviewed her report (attached). She stated that the church is residential and the request is to zone it for commercial use; across the street is a residence that is zoned for commercial – the request is to zone it for residential. She reported that the Davis's submitted in 2014; all notifications were done properly.

Ms. Baird stated that Planning met with the applicant and the Public Works Director regarding the traffic impact of the rezoning request; they also received comment from ODOT who expressed no concerns regarding the requested change. It was determined that there would not be much impact for traffic and Public Works waived the requirement for a traffic study.

Ms. Baird stated that the request meets with statewide planning goals; requirements have been met or met with conditions. She said that the Board can approve the application as recommended, can approve it with amended findings/conditions, can find it does not meet with requirements and deny or can delay their decision to a date and time certain. She explained that if the Board were to deny the application, they would have to have justification to support that decision.

Commissioner Runyon asked if the house being in a commercial zone was an oversite. Ms. Baird replied that the house has been there since the 1950s and the zones were set in the 1980s, including this area. She said that she does not know why they did not correct that although it is adjacent to some commercial properties.

Applicant Mike Davis said that 18 months ago it was brought to the community's attention that the Methodist Church was shutting down their Tygh Valley church which is a 6,000 square foot building. He said that the community did not want it to stand empty and deteriorate and so came to an arrangement to purchase it. He said

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that the intended use is community outreach to strengthen the community. He stated that it will require an investment but has historic value and can support the creation of sustainable jobs. He reported that the South Wasco Alliance wants to involve the community in the process. The sanctuary will be for community activities, the downstairs will be an incubator for small businesses and the wing could house a clinic or business. He said that community support is phenomenal; there are already three families active on the grounds with a community garden and three businesses interested in coming in – each would bring three to eight employees. He stated that they will talk with the community about what kind of businesses they would like to see in the area.

Chair Hege asked if anyone wished to speak in favor of the application.

County Clerk Lisa Gambee, Tygh Valley resident and SWA Board member, said that it is an interesting swap of usage that will allow for a more productive use of the space. She said that it is an appropriate swap that the South Wasco Alliance supports.

Chair Hege asked if anyone wished to speak in opposition of the application. There were none.

Chair Hege closed the public testimony portion of the hearing and opened deliberations.

Commissioner Runyon said that he thinks this is great and exactly what the SWA has been working toward for their community – this is a first-step. He said it should be noted that Mr. Davis is a member of the Planning Commission and had recused himself from this discussion at the Planning Commission. He stated that with the new road going in, in that area, it will be good.

{{{Commissioner Kramer moved to approve the application to rezone two properties in Tygh Valley: 4S 13E 3CC 3400 – Change from TV-R, Tygh Valley Residential, to TV-C, Tygh Valley Commercial and 4S 13E 3CC 4300 – Change from TV-C, Tygh Valley Commercial to TV-R, Tygh Valley Residential with recommended conditions: septic approval shall be obtained from the North Central Public Health District for all proposed uses in the old church building (4S 13E 3CC 3400) prior to the commencement of the use and the subject

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parcels are located in the EPD-2, Geologic Hazard Overlay Zone (landslide Area); future development may be required to obtain a geologic hazard report prepared by an engineering geologist or engineer that is certified to evaluate soils. The written report of the engineering geologist or engineer shall certify that the development proposed may be completed without threat to public safety or welfare. Commissioner Runyon seconded the motion which passed unanimously.}}

North Central Public Health District Environmental Health Specialist Supervisor John Zalaznik said that bringing business into the area is great; if it becomes a food production facility, grease will become an issue for the septic system.

Public Hearing - Solid Waste Landfill License Amendment

Mr. Zalaznick explained that the Solid Waste Advisory Committee (SWAC) would like to change the timing for the CPI adjustment to rates. He said that it was set for an average calculated from September 30th to September 30th with notice to go out to customers by November 1st. He stated that once the calculations are complete they have to go before both the SWAC and the Board of Commissioners for approval; there is just not enough time from the end of September to the beginning of November to accomplish all that needs to be done. He said that changing the date to run from July to July would give them an extra couple of months to complete the process and notify customers.

Commissioner Kramer pointed out that this process involves multiple municipalities and it takes time to get it through every entity.

{{{Commissioner Kramer moved to approve the Amended 2015 Solid Waste Disposal License Agreement. Commissioner Runyon seconded the motion which passed unanimously.}}}

Agenda Item – Finance Update

Interim Finance Director Debbie Smith-Wagar said that she wanted the Board to be aware that there will be some upcoming budget adjustments. She explained that she is trying to get everything caught up, but some things need immediate attention which slows down the ongoing work.

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Ms. Smith-Wagar went on to say that the Finance Director and Human Resources positions are being advertised at higher rates than budgeted; further analysis of the positions show that need. She reported that the Finance position has been advertised for a month and the County has broadened the search to the state. She said that there has been some interest in the Human Resources position and she is hopeful that it will be filled. She added that the recently-hired Accounting Clerk is getting up to speed and that has been helping a lot.

Ms. Smith-Wagar went on to say that beyond increased wages for open positions, there may be a supplemental budget calendar to give the Board a bigger overview rather than doing it piecemeal. She said that she would expect the first to come in October followed by a second one in the early spring.

Ms. Smith-Wager stated that the software interface between the Assessor's system and the Finance system is running well – no further adjustments have been necessary for the last two transfers. She pointed out that this eliminated the opportunity for human error in the transfer of information. She reported that Thompson Reuters and Assessor Jill Amery have been very helpful.

Ms. Smith Wager continued by saying that the new lockbox system will deposit property taxes directly into the County account at US Bank. She said she had pushed for that system as it will take a huge load off of staff and also provides an additional internal control.

Ms. Smith-Wagar explained that she is working to streamline reporting; it is not ready yet but she plans to provide a first quarter update with reporting options to give the Board an idea of where the County was and where it is. She said that the day to day work is being done even with the limited staffing. She noted that there are some positions that remain unposted while we wait for HR Answers evaluation.

Mr. Stone interjected that we are also changing some processes; for instance, bills that were being paid out of Administrative Services are now going to Finance. Ms. Smith-Wagar stated that she has been doing the Treasurer work but that is being transitioned to Accounting Clerk John Hay. She reported that there was no problem with the July turnover and she anticipates it will continue to be smooth; she stays in communication with the taxing districts.

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Mr. Stone said that we will still see deficiencies in the audit but they will be accompanied by notes that the County has taken the appropriate corrective action. Ms. Smith-Wagar agreed saying that the deficiencies in the last report were for the year ending 2014 but not brought to the County until the middle of fiscal year 2015 so those items were still occurring; by the end of the fiscal year the County took steps to correct them. She said that they will audit the entire year – both the deficiencies and the corrective actions will be included in the audit.

Mr. Stone reported that Debbie, with the help of other County staff, managed the Fair cash office this year. He said that while there were many problems last year, this year it worked well. Ms. Smith-Wagar stated that she would have recommendations for next year; one will be that they rotate staff to help so that just one person is not there for the entire time. Mr. Stone added that it was run better than he has ever seen.

Chair Hege called a recess at 10:17 a.m.

The session reconvened at 10:25 a.m.

Agenda Item - Wholly Uncollectible Taxes

County Assessor Jill Amery said that personal property manufactured homes are difficult; people often do not understand the process for "decommissioning" a manufactured home. When they do not notify the County, taxes are still levied against the property. In this case the home had become inhabitable and had been removed.

Ms. Amery went on to say that she does not like to write them off and there are ongoing discussions about garnishments and public education.

Chair Hege commented that often it is more costly to collect than to write-off the debt. Ms. Amery agreed.

{{{Commissioner Runyon moved to approve Order 15-080 in the matter of the cancellation of certain uncollectible personal property taxes. Commissioner Kramer seconded the motion which passed unanimously.}}}

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Agenda Item - IGA for Document Processing

Ms. Amery stated that the price is similar to last year's although the hand work is up from \$52 to \$65. She observed that it hasn't gone up a lot in recent years; she is going to talk to them about what we can expect in the future.

Chair Hege noted that this is for tax statements and asked if it is the most economical. Ms. Amery replied that they looked at it last year and it is the most economical method. She pointed out that Lane County uses them and that is very helpful. She added that they have also been very accommodating for Wasco County's transition to the lockbox, even though it is very last minute.

Commissioner Runyon said that the Board has seen this agreement year after year and it always comes back as the most efficient means; the private sector has a hard time meeting some of the government system requirements.

Chair Hege asked about the lockbox system relative to this agreement. Ms. Amery responded that the statement will remain the same but the address on the return envelope will change and it will have a scan line for the readers. She added that they will be including an insert with an explanation. She said that many other counties use the lockbox system and it works well.

Chair Hege asked if taxpayers can take their payment to a bank. Ms. Amery replied that they can no longer do that as there have been problems with that method of payment. She stated that if they want to make a payment in person, they can still come to the Assessor's Office to do that.

{{{Commissioner Runyon moved to approve the State of Oregon Department of Administrative Services Intergovernmental Agreement for Document Publishing, Processing and Delivery. Commissioner Kramer seconded the motion which passed unanimously.}}}

Agenda Item – Surveyor Agreement

Public Works Director Arthur Smith said that the Hood River County Surveyor had retired suddenly this spring and they were at a loss. He explained that up until now he had had a gentlemen's agreement with Hood River to provide surveying services

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while they searched for a replacement. He stated that time has passed and it seems they are no closer to filling that position and the scope of the work is broadening. He said that together they decided it was time to formalize the agreement and structure reimbursement for the work. He said that this agreement sets out regular hours for Wasco County Road Surveyor Bradley Cross to be in Hood River; Wasco County will be compensated for that time.

Chair Hege asked if travel time will be included in the compensation. Mr. Smith replied that Mr. Cross lives in Hood River and will be working there on Wednesdays; there is really no travel involved.

Commissioner Runyon observed that this is a wonderful example of cooperation in the Columbia Gorge.

Chair Hege asked if this might develop into a long-term arrangement. Mr. Smith responded that Hood River County really needs a full-time surveyor – they are growing. He added that the hope is Wasco County will continue to grow and we will need our surveyor full-time.

{{{Commissioner Runyon moved to approve the Intergovernmental Agreement between Wasco County and Hood River County for surveyor services. Commissioner Kramer seconded the motion which passed unanimously.}}}

Agenda Item - Fund Exchange Agreement

Mr. Smith reported that the anticipated amount for this agreement is \$250,000 which is to be used for road restoration work. He said he is proposing to restore about 10 miles of road that meet the requirements of the program. He stated that it is a good program and Wasco County needs every penny. He explained that because of the work being done in cooperation with the City of The Dalles, the work will be done next spring within this fiscal year.

Chair Hege asked if this is for chip sealing. Mr. Smith replied that it is.

{{{Commissioner Kramer moved to approve the 2015 Fund Exchange Agreement 30883 for Surface Pavement Restoration in Wasco County.

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Commissioner Runyon seconded the motion which passed unanimously.}}}

Chair Hege asked about the work being done on Hostetler Street. Mr. Smith replied that the County is not involved in that work, but did do the work on Washington Street. Chair Hege asked what the effect of the fog sealer is outside of aesthetics. Mr. Smith replied that in an urban area with storm drainage, it helps to seal the microcracks and can be useful. He said that it also shows the paint striping more vividly and so has a safety impact.

Mr. Stone said that staff has been doing a lot of due diligence around space planning. He went on to say that they have been trying to find a way to maximize the Public Works building to make the most efficient use of space and manpower. He asked Mr. Smith for a brief update of the progress.

Mr. Smith said that he and Planning Director Angie Brewer have been renegotiating with the architect as directed by the Board. He reported the architect had submitted a second proposal with a scaled back scope but after meeting with Mr. Stone it was determined that the new proposal would not provide what is needed and they asked the architect to revise the scope for a more conceptual design. He reported that after looking at the next proposal they asked the architect to revise again; they just received the latest proposal and have not yet had an opportunity to review it. He added that they have involved Facilities to help understand what is already in the building. He went on to say that the IT department has been looking at equipment leases and how they can reduce the equipment in the building; staff is trying to streamline and prepare for the coming changes. He said he hopes to be at the next Board session with a recommendation.

Mr. Stone said that although the moves are separate they are intertwined; it is great to see the directors come together for the good of the County. Ms. Amery said that staff is grateful for the support of the administration and it has been great to work with County Clerk Lisa Gambee and her staff who have seen this as an opportunity. Ms. Gambee noted that the challenge for her office is election security. She stated that they will use the Quest room year round for election equipment and the Celilo during elections. She announced that there will be an election in November for Shaniko; they have only 21 voters which will be a good test for the new arrangement.

Ms. Amery stated that they will make the move during the holidays as it is a slow time

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for both offices.

Commissioner Runyon said that he recently attended the Lower John Day ACT meeting with Mr. Smith. He said that when he first began attending those meetings there were only 12 in attendance and now there are over 30. Mr. Smith added that ACT has helped open eyes to available funding.

Ms. Gambee said that on a windy day a plume of dust was coming off of the Wamic Grade work site. Mr. Smith said that the cuts will be hydroseeded; some will be mulched. He observed that if there is a flash storm it will be a problem. He reported that there is a lot of new culvert going in to help with that; they will be adding gravel by the end of the week.

Chair Hege asked what they estimate to be the date of completion. Mr. Smith replied that October 6th is the final date; it should be paved by the end of September. Chair Hege asked if local residents are aware of the timeline. Ms. Gambee stated that she does not think people know. Mr. Smith noted that the school district is aware. Ms. Gambee said there is an email distribution list that can be used to get information out. Mr. Smith stated that he has a newsletter he can send for her to distribute.

Agenda Item - Settlement Agreement

Mr. Stone explained that the Evans submitted and application in February; it was deemed complete in March which began the clock for completion. He said that with the current volume of work and staffing shortages a backlog of applications has developed; although they were very close to finishing, they were not able to complete the process in the prescribed timeline. As a result, the applicants filed a writ to move it from the Planning Department to the court. He went on to say that the County has negotiated to waive their fees to give staff the extra few weeks needed to complete the process. He noted that we would have had to pay those anyway had it gone to court and this saves the extra costs associated with the court procedure.

Commissioner Runyon observed that the zoning amendment change done earlier today was a simple item that required 100 pages of documentation; short staffing is a problem. Mr. Stone agreed, adding that the volume of work coming into the department is also very challenging. Commissioner Runyon concurred, saying that in a normal year each planner has 6-8 cases at any time; they each currently have about

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18.

{{{Commissioner Kramer moved to approve the Settlement Agreement between Evans and Wasco County. Commissioner Runyon seconded the motion which passed unanimously.}}}

Agenda Item - MCCFL

Mid-Columbia Center for Living Executive Director Barbara Seatter said that this IGA moves the process forward, outlining roles and responsibilities for the Community Development Block Grant for which the County is applying on behalf of MCCFL. Mr. Stone added that they have been working with MCCFL and County Counsel to get this in place as it is required for the process. He stated that we are asking for \$2 million through the CDBG process which has to go through a City or County; Wasco County has agreed to be the sponsor. He observed that this will be quite a bit of work; the County will have to administer the grant, receive and expend the funds – it is Wasco County's project, not MCCFL's. He explained that this document is an agreement as to how those tasks will be completed. He said that because of the volume of work, MCCFL will provide staffing for administration and will cover the legal fees – this outlines all of those pieces. Ms. Seatter added that MCCFL is getting a project manager on board for this process.

Chair Hege announced that we have received the letter inviting us to apply which is the first hurdle. Ms. Seatter observed that they do not issue an invitation unless there is a good chance for an award.

{{{Commissioner Runyon moved to approve the Intergovernmental Agreement between Mid-Columbia Center for Living and Wasco County regarding construction of a community mental health center using Community Development Block Grant funds. Commissioner Kramer seconded the motion which passed unanimously.}}

Commissioner Runyon read the title of the ordinance into the record:

"In the matter of an ordinance ratifying an intergovernmental agreement creating the Mid-Columbia Center for Living (MCCFL) and revised intergovernmental agreement for the continued operation of MCCFL – Ordinance #15-002."

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Chair Hege asked if we know the actual process for the ordinance. Ms. White replied that statute requires that the ordinance be read, at least in title, at two public sessions a minimum of 13 days apart unless in case of an emergency. She added that it had been determined that this did not rise to the level of an emergency.

Ms. Seatter stated that Hood River is a home-ruled county and that Sherman County interpreted the statute differently.

{{{Commissioner Kramer moved to approve Ordinance #15-002 ordinance ratifying an intergovernmental agreement creating the Mid-Columbia Center for Living (MCCFL) and revised intergovernmental agreement for the continued operation of MCCFL. Commissioner Runyon seconded the motion which passed unanimously.}}

{{{Commissioner Kramer moved to approve between Wasco, Hood River and Sherman counties (the Counties) pursuant to ORS 430.260(c), (d) and (e) and ORS 190.010(5) to ratify the continued existence of the intergovernmental entity known as Mid-Columbia Center for Living (MCCFL), governed by an independent board known as the Tri-County Mental Health Board (the Board) and to provide for the terms of MCCFL's governance, authority and responsibility. Commissioner Runyon seconded the motion which passed unanimously.}}}

Ms. White read a passage from ORS 203.045: Except as subsections (4) and (5) of this section provide to the contrary, every ordinance of a county governing body shall, before being put upon its final adoption, be read fully and distinctly in open meeting of that body on two days at least 13 days apart.

Ms. White went on to say that sections four and five outline the possibility of emergency passage in one session and the ability to read an ordinance by title only unless a commissioner requests a full reading.

Discussion Item – Wildfire Prevention Proclamation

Chair Hege stated that the Bureau of Land Management had called to say that the wildfire season is still nightmarish and asked for a County proclamation that would support their efforts to increase public awareness of the need for prevention

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measures. He read the proclamation into the record (included in the packet).

{{{Commissioner Runyon move to approve the Wildfire Prevention Proclamation. Commissioner Kramer seconded the motion which passed unanimously.}}}

Discussion Item – Wasco County Forest Collaborative Group Steering Committee Appointments

Commissioner Kramer stated that these appointments are based on the WCFCG's charter requiring appointment by the Wasco County Board of Commissioners. He said that they have not yet filled the forest industry and environmental representative positions. He said the Group should be able to apply for grants in late September or early October.

Chair Hege asked what would happen if they are unable to fill the other two positions. Commissioner Kramer replied that the group would still be able to move forward but want those two positions on board to prevent future issues.

Commissioner Runyon observed that those being appointed are well-known in the community and bring a wealth of knowledge and experience.

Commissioner Kramer said that co-convener, Ryan Bessette, had submitted his application yesterday; the application is not included in the packet but has been provided to the Board members hard-copy today (see attached).

{{{Commissioner Runyon moved to approve Order 15-072 appointing Clay Penhollow to the Wasco County Forest Collaborative Group Steering Committee. Commissioner Kramer seconded the motion which passed unanimously.}}}

{{{Commissioner Kramer moved to approve Order 15-073 appointing David Jacobs to the Wasco County Forest Collaborative Group Steering Committee. Commissioner Runyon seconded the motion which passed unanimously.}}}

{{{Commissioner Runyon moved to approve Order 15-074 appointing Jeremy Thompson to the Wasco County Forest Collaborative Group Steering

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Committee. Commissioner Kramer seconded the motion which passed unanimously.}}}

{{{Commissioner Kramer moved to approve Order 15-075 appointing John Nelson to the Wasco County Forest Collaborative Group Steering Committee. Commissioner Runyon seconded the motion which passed unanimously.}}}

{{{Commissioner Runyon moved to approve Order 15-076 appointing Dan Van Vactor to the Wasco County Forest Collaborative Group Steering Committee. Commissioner Kramer seconded the motion which passed unanimously.}}}

{{{Commissioner Kramer moved to approve Order 15-077 appointing Pat Davis to the Wasco County Forest Collaborative Group Steering Committee. Commissioner Runyon seconded the motion which passed unanimously.}}}

{{{Commissioner Runyon moved to approve Order 15-078 appointing Rich Thurman to the Wasco County Forest Collaborative Group Steering Committee. Commissioner Kramer seconded the motion which passed unanimously.}}}

{{{Commissioner Kramer moved to approve Order 15-079 appointing Harvey Long to the Wasco County Forest Collaborative Group Steering Committee. Commissioner Runyon seconded the motion which passed unanimously.}}}

{{{Commissioner Runyon moved to approve Order 15-081 appointing Ryan Bessette to the Wasco County Forest Collaborative Group Steering Committee. Commissioner Kramer seconded the motion which passed unanimously.}}}

Chair Hege asked about the level of confidence they have for filling the other two positions. Commissioner Kramer replied that he thinks forest products will be filled; Ron Schneider has been participating. He said that BARK was at the table early on and the Group has kept then informed along with the Nature Conservancy and Oregon Wild.

Ms. Gambee stated that she serves on Sustainable Northwest; there are so many

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collaboratives, that they are having a hard time participating in all of them – there is not enough staff to go around.

Ms. White reminded the Board that at the last session they had reviewed the new rate chart for The Dalles Chamber of Commerce and selected the basic membership which provided the County with over \$500 in savings over the previous dues of \$775. She said that the Board had discussed membership in other Chambers located in Wasco County determining that memberships in all would be equitable. Ms. White reported that since the last session she had contacted the Maupin and Dufur Chambers of Commerce and obtained applications and rate information which is provided in the packet. She pointed out that membership in all three is still less than the previously paid dues for The Dalles Chamber.

The Board was in consensus to apply for membership in the Maupin and Dufur Chambers of Commerce.

Discussion Item - Public Hearings

Ms. White announced that two public hearings have been scheduled to hear from the community regarding the recent marijuana legislation. She said that the first hearing is set for 6:00 p.m. on Thursday, September 17th at the Dufur School Cafeteria immediately preceding the South Wasco Alliance; the second hearing is scheduled for 5:30 p.m. on Monday, September 21st at the Mosier Senior Center. She went on to say that a flyer will be distributed for posting in County offices as well as libraries and post offices throughout the County. In addition, a press release will be sent to the newspaper and radio station. To support public education, a small website has been created with a variety of documents and links to help explain the law and County options.

Commissioner Runyon pointed out that the Board is only concerned with the unincorporated areas, not the municipalities.

Ms. Gambee stated she wants to make the Board aware that the SWA has a guest speaker scheduled to appear at their September 17th meeting; it will be important that the public hearing concludes on time.

Discussion Item - 8.19.2015 & 8.27.2015 Minutes

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{{{Commissioner Runyon moved to approve the Consent Agenda. Commissioner Kramer seconded the motion which passed unanimously.}}}

Commission Call

Ms. White stated that the Board had received information on the upcoming AOC Radio Conference scheduled in Hood River. She reported that she had spoken to Eric Schmidt from the AOC and learned that this initial meeting is for staff that participate in the programs using this system. There is not a need for Commissioners to attend; policy makers will be brought in later in the process.

Mr. Stone related that he had attended an after-action meeting regarding the recent white powder incident. He said that they will be coming back with some changes to how the County approaches incidents; for instance, an incident command was not set up quickly enough this time – that will be fixed going forward.

Chair Hege said that Emergency Manager Kristy Beachamp had sent out a report on the 2012 bomb threat; there was a recommendation for a system that the County has but is not functional. He asked if it is something that the County plans on reactivating.

Mr. Stone said he thinks it did not make it into the final budget; it is a courthouse security issue and there are dollars available there. He said that, that committee will take up that topic for discussion. He said that there are advantages and disadvantages to the system.

Chair Hege said that he believes that if we decide not to activate it, we should remove it.

Commissioner Runyon reported that he had recently met with AOC Veterans Liaison Andy Smith and Wasco County Veterans Service Officer Russ Jones. He stated that Mr. Jones had developed a good list of items to bring forward for veterans; Mr. Smith was taking good notes of items to bring up at the September 14th AOC veterans meeting.

Chair Hege adjourned the session at 11:40 a.m.

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Summary of Actions

Motions Passed

- To approve the Marketing Consultant grant contract between Wasco County and Linda Griswold.
- To approve the 2015-2017 Prevention Agreement with Mid-Columbia Center for Living.
- To approve the application to rezone two properties in Tygh Valley: 4S 13E 3CC 3400 Change from TV-R, Tygh Valley Residential, to TV-C, Tygh Valley Commercial and 4S 13E 3CC 4300 Change from TV-C, Tygh Valley Commercial to TV-R, Tygh Valley Residential with recommended conditions: septic approval shall be obtained from the North Central Public Health District for all proposed uses in the old church building (4S 13E 3CC 3400) prior to the commencement of the use and the subject parcels are located in the EPD-2, Geologic Hazard Overlay Zone (landslide Area); future development may be required to obtain a geologic hazard report prepared by an engineering geologist or engineer that is certified to evaluate soils. The written report of the engineering geologist or engineer shall certify that the development proposed may be completed without threat to public safety or welfare.
- To approve the Amended 2015 Solid Waste Disposal License Agreement.
- To approve Order 15-080 in the matter of the cancellation of certain uncollectible personal property taxes.
- To approve the State of Oregon Department of Administrative Services Intergovernmental Agreement for Document Publishing, Processing and Delivery.
- To approve the Intergovernmental Agreement between Wasco County and Hood River County for surveyor services.
- To approve the 2015 Fund Exchange Agreement 30883 for Surface Pavement Restoration in Wasco County.

WASCO COUNTY BOARD OF COMMISSIONERS REGULAR SESSION SEPTEMBER 2, 2015 PAGE 21

- To approve the Settlement Agreement between Evans and Wasco County.
- To approve the Intergovernmental Agreement between Mid-Columbia Center for Living and Wasco County regarding construction of a community mental health center using Community Development Block Grant funds.
- To approve Ordinance #15-002 ordinance ratifying an intergovernmental agreement creating the Mid-Columbia Center for Living (MCCFL) and revised intergovernmental agreement for the continued operation of MCCFL.
- To approve between Wasco, Hood River and Sherman counties (the Counties) pursuant to ORS 430.260(c), (d) and (e) and ORS 190.010(5) to ratify the continued existence of the intergovernmental entity known as Mid-Columbia Center for Living (MCCFL), governed by an independent board known as the Tri-County Mental Health Board (the Board) and to provide for the terms of MCCFL's governance, authority and responsibility
- To approve the Wildfire Prevention Proclamation
- To approve Order 15-072 appointing Clay Penhollow to the Wasco County Forest Collaborative Group Steering Committee
- To approve Order 15-073 appointing David Jacobs to the Wasco County Forest Collaborative Group Steering Committee.
- To approve Order 15-074 appointing Jeremy Thompson to the Wasco County Forest Collaborative Group Steering Committee.
- To approve Order 15-075 appointing John Nelson to the Wasco County Forest Collaborative Group Steering Committee.
- To approve Order 15-076 appointing Dan Van Vactor to the Wasco County Forest Collaborative Group Steering Committee.
- To approve Order 15-077 appointing Pat Davis to the Wasco County

WASCO COUNTY BOARD OF COMMISSIONERS REGULAR SESSION SEPTEMBER 2, 2015 PAGE 22

Forest Collaborative Group Steering Committee.

- To approve Order 15-078 appointing Rich Thurman to the Wasco County Forest Collaborative Group Steering Committee.
- To approve Order 15-079 appointing Harvey Long to the Wasco County Forest Collaborative Group Steering Committee.
- To approve Order 15-081 appointing Ryan Bessette to the Wasco County Forest Collaborative Group Steering Committee.
- To approve the Consent Agenda: 8.19.2015 Regular Session Minutes & 8.27.2015 Public Hearing Minutes.

Consensus

 To apply for membership in the Maupin and Dufur Chambers of Commerce.

WASCO COUNTY BOARD OF COMMISSIONERS
Scott Hege, Commission Chair
Rod Runyon, County Commissioner
Steve Kramer, County Commissioner

Consent Agenda Item Franchise Transfer

- Staff Memo
- Resolution 15-010 Approving Franchise Transfer
- Franchise Transfer and Consent

MEMORANDUM

TO: BOARD OF COUNTY COMMISSIONERS

FROM: KATHY WHITE

SUBJECT: FRANCHISE TRANSFER

DATE: 9/11/2015

BACKGROUND INFORMATION

At the August 5, 2015 Session, the Solid Waste Advisory Committee recommended that a proposed sale and franchise transfer from Mel's Sanitary to Waste Connections be approved by the Board of County Commissioners. Following that presentation the Board passed a motion to accept the recommendation for the sale and franchise transfer from Mel's Sanitary to Waste Connections pending legal review.

The documents in today's packet complete that transaction and have been approved by Waste Connections, Mel's Sanitary and Wasco County attorneys. You will note that there are some blanks in the resolution – we are working to get accurate date and title information for the supporting documents referenced in the resolution; those will be available to you prior to a vote on the Consent Agenda.

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF APPROVING THE)	
PROPOSED TRANSFER OF MEL'S)	RESOLUTION
SANITARY SERVICE, INC. FRANCHISE)	#15-010
TO WASTE CONNECTIONS OF OREGON)	
INC.)	

NOW ON THIS DAY, the above-entitled matter having come on regularly for consideration, said day being one duly set in term for the transaction of public business and a majority of the Board being present; and

WHEREAS, County approved the 1994 Solid Waste Collection and Disposal Ordinance granting a solid waste collection franchise to Mel's Sanitary Service, Inc.; and

WHEREAS, County's franchise with Mel's Sanitary Service, Inc. establishes certain terms and conditions for that company's delivery of solid waste and recycling services within a particular geographic territory in the County;

WHEREAS, as one of the provisions of 1994 Solid Waste Collection and Disposal Ordinance Mel's Sanitary Service, Inc. agreed that it would not transfer the franchise without the prior consent of County;

ORDER 15-010 Page | 1

WHEREAS, Mel's Sanitary Service, Inc. has made a decision to transfer its franchise to Waste Connections of Oregon, Inc. and has requested that County give its consent to transfer the entirety of its franchise to Waste Connections of Oregon, Inc.;

WHEREAS, this transfer has been reviewed by the Wasco County Solid Waste Advisory Committee (SWAC) with regard to the technical, legal and financial qualification of Waste Connections of Oregon, Inc. to deliver solid waste collection service within the prescribed geography territory for the term of the franchise. The SWAC recommends that County approve the transfer;

WHEREAS, the County has determined that Waste Connections of Oregon, Inc. has been serving customers for many years through a franchise granted by the City of The Dalles, and has the knowledge, experience, and financial resources to meet all obligations of a solid waste franchise for County, and that the manager of the company serving The Dalles will also, initially, be the manager of the franchise of the County; and

WHEREAS, the current franchisee is in good standing with franchise fee payments and all other aspects of current solid waste and recycling codes.

NOW, THEREFORE, THE WASCO COUNTY BOARD OF COMMISSIONERS HEREBY RESOLVES:

Section 1: Subject to the terms and conditions stated in the attached Agreement and Consent to Assignment of Franchise, incorporated herein by this reference, consent is hereby given to the transfer of the solid waste franchise from Mel's Sanitary Service, Inc. to Waste Management of Oregon, Inc.

ORDER 15-010 Page | 2

Section 2: This resolution memorializes action taken by the Board of Commissioners on August 5, 2015 at a regularly scheduled meeting of the Board of Commissioners.

Section 3: In the event that transaction which is the subject of this Resolution is not consummated, or in the event such closure is reached on terms substantially and materially different than the terms previously described in the information provided to County and relied upon by County, then this Resolution, together with consent hereunder, is null and void.

DATED this 16th day of September, 2015.

	WASCO COUNTY BOARD OF COMMISSIONERS
	Scott C. Hege, Commission Chair
APPROVED AS TO FORM:	
Kristen Campbell	Rod L. Runyon, County Commissioner
Wasco County Counsel	
	Steven D. Kramer, County Commissioner

ORDER 15-010 Page | 3

AGREEMENT AND CONSENT TO ASSIGNMENT OF FRANCHISE

1. Parties, Effective Date. Effective on August 19, 2015, Mel's Sanitary Service, Inc., an Oregon Corporation, (Mel's) and Waste Connections of Oregon, Inc., an Oregon Corporation (Company) agree, and the Board of Commissioners of Wasco County, a municipal corporation of the State of Oregon (County), consents, as follows:

2. Background.

- a. County and Mel's are parties to a certain franchise agreement, a copy of which is attached hereto ("Franchise").
- b. Mel's desires to transfer and assign its interest in and obligations under the Franchise to Company, in connection with its sale and transfer of the business and its assets to Company.
- c. Company desires and agrees to assume, perform and discharge all obligations of Mel's under the Franchise.
- d. The consent and approval of County is required for Mel's assignment of its interest in the Franchise to Company, and County is willing to provide such consent based on the promises and representations of Mel's and Company made herein and subject to the conditions set forth below.
- e. Company has demonstrated knowledge of the level and nature of services being provided by Mel's, and has the expertise and resources to duly observe and perform each and all of the obligations applicable to Mel's under the Franchise Agreement.
- **3. Effective Date of Consent and Approval.** Effective with date of transfer of its business and assets, that being September 1, 2015, Mel's assigns and transfers to Company, and Company accepts such transfer and assignment from Mel's of all of Mel's rights and obligations in the Franchise

4. Representations of Mel's.

- a. Mel's is not in default in any respect of any requirements of the Franchise, and no event has occurred in which with the passage of time would constitute a default under the Franchise; and
- b. Mel's has agreed to assign its interest in the Franchise and Franchise Agreement to Company; and
- c. Mel's transfer of this Franchise is subject to the successful closing of the asset purchase agreement with Company.

5. Representations and Covenants of Company.

- a. Company promises and agrees to assume, perform and discharge all obligations of Mel's under the Franchise from and after the effective date of September 1, 2015.
- b. Company has the professional competence, experience, resources and commitment to and shall carry out each and all of the obligations applicable to Mel's under the Franchise.in a manner that will meet or exceed the existing service levels..
- **6. Consent of County.** Subject to and reliance on the representations and covenants set forth above, County hereby consents to the assignment of Mel's interest in the Franchise to Company and releases Mel's from any further obligations thereunder from and after the effective date of September 1, 2015.

IN WITNESS WHEREOF, the parties have executed this Agreement regarding consent to assignment and transfer of franchise as of the date and year first written above.**MEL'S SANITARY SERVICE, INC.**

By: Melvin J. Barlow, President WASTE CONNECTIONS OF OREGON,IN	C.
By: Title:	
CONSENT:	
BOARD OF COMMISSIONERS WASCO COUNTY, OREGON	APPROVED AS TO FORM:
Scott Hege, Chairman	Kristen Campbell, County Counse
Rod Runyon, Commissioner	
Steve Kramer, Commissioner	
ATTEST:	
Kathy White, Executive Assistant	

Agenda Item North Central Public Health District Quarterly Report

- NCPHD Quarterly Report
- 2015 Fiscal Analysis with General Fund
 Contribution
- NCPHD Annual Report

Divisi	Mandated programs are highlighted in yellow Administration	WORKING DRAFT ONLY Program (definition)		Result/Outcome (timeframeQ 1-3 July 2014-Mar 2015)	FTE	*State funding (Wasco)	*State funding (Sherm + Gilliam)	Total	State Funding	2015 YTD State Funding	BUD District funding (W,S,G)	YTD District funding (W,S,G)	BUD Fees & Other revenue	YTD Fees & Other revenue	Comments
7143	Director	<u>.</u>	See triennial review benchmarks		1.00						?	?			
7141 & 7149	Health Officer	consultation on public health practice, provides clinical services as needed	See triennial review benchmarks		0.40						?	?			
714:	L Vital Records	and a few Ant O was attended to the account	benchmarks	14-15 yr totals: 99 Birth Cert. Requests, 124 Birht Cert. issued,	0.75						?	?	\$26,000	\$18,390	
7148	Medicaid Adm Claim.	pertaining to administration of the state's Medicaid Plan, such as referral and outreach.	NA:								?	?	\$70,000	\$85,901	
7148	Medicaid Incentive	CMS Electronic Health Record incentive program. For implementation of E H R and meeting meaningful us objectives.	NA:										\$17,000		Meaningful use incentive funds from Center for Medicaid/Medicare Services(federal Medicaid)
714:	County Funding: Wasco, Sherman, Gilliam				2.39						\$572,072	\$404,602			totals not broken down
	Communicable Disease & Preparedness														
7141 & 7145	Sexually Transmitted Diseases	0 1 10 E T			1						?	· P	\$30,147	\$13,536	

i		WORKING DRAFT ONLY Program (definition)	Benchmark	Result/Outcome (timeframeQ 1-3 July 2014-Mar 2015)		funding (Wasco)	,	Total	2015 BUD State	State	BUD District funding (W,S,G)	YTD District funding (W,S,G)	BUD Fees & Other	& Other	Comments
7145 7145	State Support	State Support for Communicable Disease surveillance & response, STD's and TB case management (TB skin testing, case monitoring and medication).	evaluated, investigated	492 total CD reports received, evaluated and managed, 4 institutional GI outbreaks managed. No deaths reported.	0.60		\$4,088	\$32,415	\$32,300	\$24,309	?	?	\$3,000		Wasco Co had 108 CD cases, Sherman Co. had 9, Gilliam had 7. 47 animal bites, 4 campy, 30 Chlamydia, 1 GC, 1 chronic Hep B, 24 chronic Hep C, 1 HIV, 2 Lead poisoning, 3 Lyme, 1 Mening, 2 Pertussis, 3 Salmonella, 1 Syphillis, 1 Taeniasis, 1 Coccidiodomyosis, 1 E.coli
714	TB Case Management	TB skin testing, case monitoring and medication.	Evaluate (rule out active)TB on ELR referrals. Offer LTBI preventive tx to 100% high risk ppds		r.	\$1,016		\$1,016	\$808	\$815	?	· ·			
714	Public Health Emergency Preparedness	Emergency Preparedness; All-Hazards planning; Public Health Emergency Response, CD Outbreak control	Meet contract requirements and biennial review	See tool	2.08	\$74,768	\$76,731	\$151,499	\$156,474	\$106,050	?	?			
714	Medical Reserve Corps	Credentialing & training of volunteer medical staff in case of a disaster	Meet grant req.	Annual report							?	ş	\$3,500	\$3,500	

	th Quarter data	WORKING DRAFT ONLY	Benchmark		BUD FTE	*State funding (Wasco)	*State funding		2015 BUD	2015 YTD	BUD District funding	YTD District funding	BUD Fees &	&	Comments
- 11	I KED	Program (definition)		2015)			(Sherm +	Total	State	State	(W,S,G)	(W,S,G)	Other	Other	
Divisio	on						Gilliam)		Funding	Funding			revenue	revenue	
	Animal Bites	Investigate, follow up on animal bite reports	Reports are followed up	45 total reports Quarter 4: 19 total reports	?										
	Environmental Health														
7141	Septic Systems	Site Evaluations, Authorizations, Repair Permits, New Construction Permits, & Technical Assistance	evaluations as applications	19 Site Evaluations, 22 New Construction Permits, 50 Repair Permits (July- March) Quarter 4: 8 Site Evaluations, 5 New Construction Permits, 22 Repair Permits &							?	?	\$30,000	\$23,439	
7141	DEQ Pass through	Fees colllected & sent to DEQ											\$3,900	\$8,300	
	Solid Waste Management	Health Officer is Chair of Solid Waste Advisory Committee(SWAC); SWAC admin. support.	Convene Board meeting 2 x yr	Met 1X (July- March)							?	?			
	Licenced Facilities:												\$80,000	\$76,021	
7146	Restaurants	License and inspect restaurants; plan reviews; food borne disease invest.	Perform Routine Inspections on 116 Restaurants 2X/yr; Other inspections as needed (i.e. reinspections)	213 Routine Inspections, 39 Reinspections, 5 Pre-Opening Inspections (July-March) Quarter 4: 32 Routine inspections, 4 Reinspections, 5 Pre-Opening Inspections							?	?			

Ath Ossantan data	WORKING DRAFT ONLY			BUD	*State	*State		2015 BUD	2015 YTD	BUD	YTD	BUD Fees		
4th Quarter data in RED			(timeframeQ 1-3 July 2014-Mar	FTE	funding (Wasco)	funding				District funding	District funding	&	&	Comments
III III III	Program (definition)		2015)			(Sherm +	Total	State	State	(W,S,G)	(W,S,G)	Other	Other	
Division						Gilliam)		Funding	Funding			revenue	revenue	
7146 Mobile Units	License and inspect; plan reviews; food borne disease invest.	units 2X/yr; Other inspections as needed (i.e. reinspections)	19 Routine Inspections; 2 Reinspections; 1 Consultation Inspection (July-March) Quarter 4: 7 Routine Inspections, 1 Reinspection, 4 Pre-Opening	0.79					J	?	ş			
			Inspections											
7146 Traveler's Accommodations	Inspect and license Hotels, Motels, Bed & Breakfast, etc.	Inspections on 27 Accommodations on a bi-	3 Routine Inspections (July- March) Quarter 4: 2 Routine							?	?			2015 Calendar year is
														when they are next due
7146 Pools & Spas	Inspect and license Pools & Spas	Inspections on 27 Pools & Spas; Other inspections as needed (i.e. reinspections)	Reinspections							3	?			Inspections done 2X/yr on year round facilities or 1X/yr on seasonal facilities
7146 Recreational Parks		Inspections on 10 Recreational Parks; Other inspections as needed (i.e. reinspections)	18 Routine Inspections (July- March) Quarter 4: 3 Routine Inspections							?	?			Inspections done 2X/yr on year round facilites or 1X/yr on seasonal facilities
7146 Organizational Camps	Inspect and license Organizational Camps	inspections on 3 Organizational Camps	2 Routine Inspections (July-March) Quarter 4: 2 Routine Inspections							?	?			Inspections done 2X/yr on year round facilities or 1X/yr on seasonal facilities
7146 Food Handler permits	Education, testing and issuing of permits.	NA	NA									\$2,800		FH Cards issued online, contracted with Lane Co.

			Panchmark	Pocult/Outcome	חום	*Ctate	*State		2015 BUD	2015 YTD	חום	YTD	BUD Fees	VTD Food	
	th Ougutou data	WORKING DRAFT ONLY	Benchmark		BUD	*State			2012 ROD	2012 AID	BUD				
	th Quarter data			•	FTE	•	funding				District	District	&	&	
ii	n RED			July 2014-Mar		(Wasco)					funding	funding			Comments
		Program (definition)		2015)			(Sherm +	Total	State	State	(W,S,G)	(W,S,G)	Other	Other	
Divisi	on						Gilliam)		Funding	Funding			revenue	revenue	
714	Short term food licenses	Inspect other public food service facilities	Inspect all Non-Benevolent	32 Non-							?	?	\$4,000	\$2,670	
		(ie. Food booths).		Benevolent											
			Temporary Restaurants	Temporary											
			, ,	Restaurants, 29											
				Inspected; 55											
				Benevolent											
				Temporary											
				Restaurants, 50											
				Consulted (July-											
				March) Quarter 4:											
				21 Non-											
				Benevolent											
				Temporary											
				Restaurants, 20											
				Inspected; 9											
				Benevolent -											
74.4	Cabaal Ingrastions	Inspect Kitchens	D (D)	Temporary							2	2	ģ5 500	44.44	
/140	School Inspections	inspect kilchens	Peform Routine	14 Routine							:	:	\$5,500	\$4,411	
			1	Inspections; 2											
			2X/yr; Other inspections	Reinspections											
			as needed (ie.e	(July-March)											
			reinspections)	Quarter 4: 12											
				Routine	ļ						_				
714	Child Care Inspections	Inspect Child Care Facilities	Estimated 20 Daycares	16 Inspections							3	3			
				(July-March)											Inspected on an as
				Quarter 4: 6											requested basis
715	Public Water Systems	Water System Surveys (as required by	1	14 Surveys	0.64	\$29,103	\$13,080	\$42,183	\$42,184	\$31,617	3	3			
		State), Contact Reports (as needed)		Completed; 44											
			Surveys Required by the	Contact Reports											
			State for 2015	Completed (July-											Unsure what is a contact
				March) Quarter 4:											report? A contact report
				10 Contact											is a written report of
				Reports											communication made
				Completed											with a water system
															operator regarding
															problems/changes/updat
															es about a water system
714	Pumper Trucks	Septage haulers and pumpers vehicle	Trucks inspected every 2	# inspected							?	?	\$2,000	\$637	
		inspection	years per DEQ req.	annually											
	Health Promotion														
Щ															

		WORKING DRAFT CALLY	Benchmark	Result/Outcome	BUD	*State	*State		2015 BUD	2015 YTD	BUD	YTD	BUD Fees	YTD Fees	
4t	h Quarter data	WORKING DRAFT ONLY				funding	funding		2013 505	2013 115	District	District	&	&	
	•			July 2014-Mar		(Wasco)					funding	funding	-		Comments
ın	RED	Program (definition)		2015)		((Sherm +	Total	State	State	(W,S,G)	(W,S,G)	Other	Other	Comments
Divisio	n	i rogram (acimidon)					Gilliam)	Total	Funding	Funding	(11,0,0)	(11,5,5)	revenue	revenue	
		CM for high utilizers of health services in	Meets contract guidelines	Annual report	0.12		Cimarij		ranang	ranamg	7	?	\$0		This evidence based
7132	Locco Harsing Services	Sherman Co. using "Coaching for	ivicets contract galacimes	, amaan report	0.12						•	•	ľ	713,327	intervention has not met
		Activation"													the re-assessment time
															line as of yet. The
															numbers are too small to
															measure decreased
															utilization.
7152		Preconception Education & Case	Per grant agreement	Annual report	0.15						?	?	\$7,000	\$7,000	
		Management "Healthy Women Get		(put in file report											
		Ready"		data)											
															919 women were asked
															"One Key Question". 80
															women seeking
															pregnancy within one
															year received indepth counseling re:
															preconception self care.
															16 clients indicated risk
															factors needing
															attention. 6 women
															became tobacco free as a
															result of the counsleing
	March of Dimes														intervention.
	Pacific Source	Healthy Weight Collaborative Reducing	Meets contract guidelines	Annual report	0.05						?	?	\$14,213	\$9,475	
		childhood obesity rate in Wasco Co.													
															The Oregon Solution
															collaborative has created
															several workgroups to
															address various efforts
															including; Safe Routes to
															School, Increasing Food
															Security, Addressing
															access to Physical Activity
															& Community Center.
7153	Immunization Special	Education about and administration of	Improved District	Annual	0.24	\$11,097	\$6,844	\$17,941	\$18,418	\$13,455	?	?			,
	Payment	vaccines: public education: enforcement of	Immunization target	reportwhat is the											
		healthcare providers who provide	_	target											
		vaccinations.		immunization											
				rate for the											

	th Quarter data RED	WORKING DRAFT ONLY Program (definition)			BUD FTE	*State funding (Wasco)	*State funding (Sherm + Gilliam)	Total	2015 BUD State Funding	2015 YTD State Funding	BUD District funding (W,S,G)	YTD District funding (W,S,G)	BUD Fees & Other revenue	YTD Fees & Other revenue	Comments
	Tobacco Prevention & Education	Promote smoke-free environments and communities. Reduce the influence of tobacco product marketing. Encourage tobacco users to quit. Reduce youth access to tobacco products; Create additional tobacco-free environments;	See TPEP work plan	New TPEP Coordinator in September 2014. Working to develop positive	2.00	\$59,600	,	\$93,666		\$57,024	?	?	revenue	revenue	
	Maternal & Child Health														
7141	Healthy Start	Provide on site health screenings at preschools; home visits & family support services for high risk families-Gilliam, Sherman and Wheeler Counties though a contract with NCESD Early Education		This program is not managed by NCPHD. It is outside our scope of influence. 6/16	1						?	?	\$10,400	\$9,750	
7141	School Nursing	Health teaching, health promotion, health screenings in the schools-care planning for students with medical needs, consultation with school staff	100% of needed health protocols written and other supports as per contract	# of health care plans completed (under development the process for this measure will be fully implemented in the 2015-16 school year) total Hrs = 368.5							?	?	\$7,000	\$8,664	

			Benchmark	Result/Outcome	BUD	*State	*State		2015 BUD	2015 YTD	BUD	YTD	BUD Fees	VTD Food	
/1+	h Quarter data	WORKING DRAFT ONLY	Dentimark			funding	funding		2013 600	2013 110	District	District	&	&	
	·			July 2014-Mar		(Wasco)	liuliuliig				funding	funding	α	α	C
in	RED					(wasco)	(C)	T. 1. 1	CI. I	CL	_	•	Ou!	OU	Comments
		Program (definition)		2015)			(Sherm +	Total	State	State	(W,S,G)	(W,S,G)	Other	Other	
Divisio							Gilliam)		Funding	Funding			revenue	revenue	O.4. av. 022 alianta 14/16
7142	WIC	Assessment, nutrition and health education and counseling to new	assigned WIC clients	945 certified	3.39	\$163,402	\$10,987	\$174,389	\$173,808	\$125,739	?	?			Q 4 - av. 923 clients, WIC caseload varies according
		families, food vouchers for pregnant and		caseload currently											to season. Increase of
		breastfeeding women and children ≤		what is the											
		5yrs, referrals, monthly classes		estimated											100+ during migrant season. NCPHD manages
				eligibility in the											service delivery during
				district? What %											harvest season. With
				are we enrolling?											about 300 births a year,
															we would anticipate 195
															WIC eligible babies.
															Statewide, enrollment
															drops off after the child
															reaches 2 years of age.
															NCPHD sees close to 85%
															of pregnant women
															enrolled on
															OHP/CAWEM. The state
															average is 78%.
7143	Maternal Child	Walk in Immunizations provided against	Decrease in missed	Annual report (#	1.58	\$14,412	\$24,447	\$38,859	\$38,516	\$28,881	?	?	\$42,000	\$17,546	
	Health/Child &		opportunities	clients/imm	1.50	717,712	724,447	750,055	730,310	720,001	•	•	Ş42,000	717,540	332 patients were given
	Adolescent Health	·		given)											vaccinations during this
		Deview and acception and displica		<u> </u>							•		40.000		time period
	Nursing Services	Review and monitor medication administration; Staff training;	Contract deliverables	Annual report To	0.02						3	3	\$3,000	\$535	
	through OCDC contract	Immunizations and TB testing and		date: 58 ppd's											
		reading.		given, 36 staff											
71.14	Danna di catina I I a alth	Physical exams, follow up and health	Chandand of some in	members	2.05	¢24.252	Ć12 7 02	Ć40 12F	¢20 F20	ć 40 100	1	2	¢200 505	Ć1C2 FF0	
/144	Reproductive Health	Physical exams, follow-up and health education; pregnancy testing and	Standard of care is:	# of total clients	3.85	\$34,352	\$13,783	\$48,135	\$30,530	\$40,199	f	ť	\$269,595	\$163,550	
		counseling; birth control information &	1	seen of all ages											
		counseling; contraception services	, ,	and % under 25											
				receiving annual											
				Ct screen per CDC											
				protocol.(**) % of											-c-
			rate.	women using											767 unduplicated clients
				LARC's. Annual											were seen during this
				unintended preg.											reporting period. 399
				rate. 46 women											were under the age of
				had LARC's.											25.269 CT tests were
744	Dropot and Comical	Droot and conjugate conservation for	D. C	0	0.40						2	2	44.000	Å=40	done (67.4%)
	Breast and Cervical Cancer Program	Breast and cervical cancer screening for low income/uninsured women 40 and	Refer women 40 and older		0.10						ť	ť	\$1,000	\$513	
	Cancer i Tograffi	older.	1	and In program											
			services												

4th Quarter data	WORKING DRAFT ONLY		Result/Outcome (timeframeQ 1-3		*State funding	*State funding		2015 BUD	2015 YTD	BUD District	YTD District	BUD Fees &	YTD Fees &	
in RED	2 (15: 11:)		July 2014-Mar 2015)		(Wasco)	(6)		C	6 1. 1	funding	funding	0.1	0.1	Comments
Division	Program (definition)		2015)			1	Total	State	State	(W,S,G)	(W,S,G)	Other	Other	
7148 Perinatal - MCM	Home visits by public health staff during	NA	# on caseload (Q	0.34		Gilliam) \$3,015	\$4,721	Funding \$4,682	Funding \$1,755	2	2	revenue	revenue \$2,801	
7148 Permatar - MCM	pregnancy and after the baby is born.	INA	1-3) = 21	0.54	\$1,700	35,015	34,721	Ş4,06Z	\$1,755	:	:	\$3,000	\$2,601	
	, , , , , ,		cients/49 visits											
			report # of											
			eligible clients in											
			the reporting											
			period : probably											
			close to 100-150											
			women? What											
			was accomplished											
			in the 49 visits?											
			What were the											
			goals for the											
			visits? What is											
			the value in											
			visiting?Q 4 - 18											
			clients seen for a											
			total of 40 visits.											
			The average birth											
			rate in our county											
			is: 25 per month.											
			A large variety of											
			client-centered,											
			family specific											
			interventions are											cost reimbursement to be
			done including:											discontinued. In
			referrals out (top											conversation w/CCO's

in	th Quarter data RED	WORKING DRAFT ONLY Program (definition)	Benchmark		BUD FTE	*State funding (Wasco)	*State funding (Sherm +	Total	2015 BUD State	2015 YTD State	BUD District funding (W,S,G)	YTD District funding (W,S,G)	BUD Fees & Other	YTD Fees & Other	Comments
Divisio							Gilliam)		Funding	Funding			revenue	revenue	
	CaCoon	Care Coordination for families that have children with special health needs.	Contract deliverables	# of children on caseload (Q 1-3) 39 clients/435visits seems like a lot of visits for .18 FTE. What was accomplished in the visits? Visit goals? Q-4 = 40 clients seen for total of 460 visits, During these visits, nurses provide individual							?	?	\$15,000	\$25,481	started tracking Cacoon TCM
7154	Community Connections	Multidisciplinary team collaborate to promote optimal health and development in children and youth with special health needs.	Contract deliverables	Annual Report how many multidisciplinary meetings were held during this time period? How many clients? Cynthia	0.19						?	Ş	\$8,800	\$10,507	includes reimb. for CCN physician

* The State funding splits are estimated amounts:

Kathi- Sorry for the differences. The amendment numbers are the official ones for you to use. When I put together the split document in February, I asked each program to give me the funding amounts that were as current as possible and to split them by the counties. They may have used some older or projected numbers. The major purpose of the document I sent out in February was to give an estimate of what the split would look like if Wasco separated from the Health District. Jan Jan Kaplan, MSW

		WORKING DRAFT ONLY	Benchmark	Result/Outcome	BUD	*State	*State		2015 BUD	2015 YTD	BUD	YTD	BUD Fees	YTD Fees	
	4th Quarter data	WORKING BRAIT ONE!		(timeframeQ 1-3	FTE	funding	funding				District	District	&	&	
	in RED			July 2014-Mar		(Wasco)					funding	funding			Comments
		Program (definition)		2015)			(Sherm +	Total	State	State	(W,S,G)	(W,S,G)	Other	Other	
[Division						Gilliam)		Funding	Funding			revenue	revenue	

Principal Executive Manager E, Office of Community Liaison
OHA Public Health Division

(**) Chlamydia is epidemic and is likely the leading cause of infertility

	Return to Agenda FUND 201	BUD 2015	Actuals 2015	County contribution distribution	Program Revenue	Restricted Revenue	Unrestricted Revenue	Net Totals	
1201	NON-DEPARTMENTAL INTEREST EARNED	1000	1,201				1,201		
7141 Total	State Federal	10,400	13,000 0 97,194			13,000 0	97,194		
\$571,568	Wasco County All Other (Program Fees, PR Reimb., Misc.) Total Program Revenue (excludes county funding)	81,547 91,947	98,656 375,717.80 88,522 101,522		88,522		98,656 375,718		
	Total Expenditures 5 programs/services - 3 mandated Vital records, Sewage disposal, Construction permits	559,340 (467,393)	479,258 (377,736)					(377,736)	(County Contribu
7142	(Co. Support for Onsite prog. \$16,041, Vital Records \$1501) Total GF Support (Director, Health Officers, Management, Admin staff, materials & services)			\$377,736					=
7142	State Federal	173,808.00	0 165,716		4 042	0 165,716			
	All Other Total Revenue Total Expenditures (Diet. Serv \$2275; Cost Alloc \$11,737; Off Sup \$2380 - over budget)	173,808.00 166,909.68 6,898			1,843			(19,717)	(MAC)
=	1 mandated service Women, Infants and Children Nutrition Program Co. Support (.14 FTE Dir \$14,223)			\$ 0					=
7143	State Federal	8,786 29,730	19,893 26,692		44.000	19,893 26,692			
	All Other Total Revenue Total Expenditures (Cost Allege editated a set a regist transferred from 7140)	45,000 83,516 123,805	14,983 61,568 121,975		14,983			(00.407)	(Ca Cant 0140 t
	(Cost Alloc adjusted; soft. maint transferred from 7148) 3 programs/services - 2 mandated: Immunizations, Home visits	(40,289)	(60,407) 40%	0.4.5.4				(60,407)	(Co Cont, CMS,
	Co. Support (.04 FTE Dir \$4064)			\$34,213					

Return	to Agenda	BUD	Actuals	County contribution	Program Revenue	Restricted Revenue	Unrestricted Revenue	Net Totals	
	FUND 201	2015	2015	distribution	Nevenue	Revenue	Revenue		
7144	WOMEN'S HEALTH								
	State	45,000	198,328			198,328			
	Federal	38,530	56,135			56,135			
	All Other	225,595	53,671		53,671				
	Total Revenue	309,125	308,134						
	Total Expenditures	372,028	390,411						
	(Cost Alloc adjusted; soft. maint transferred from 7148)	(62,903)	(82,277)					(82,277)	(Co Cont, CMS, I
	2 programs/services - 2 mandated:								
	Family Planning, Breast & Cervical Cancer		55%						
	Co. Support (.17 FTE Dir \$17,271)			\$47,043					
7145	STATE SUPPORT								
	State	33,800	36,632			36,632			
	Federal	308	494			494			
	All Other	13,600	6,653		6,653				
	Total Revenue	47,708	43,779						
	Total Expenditures	47,170	49,118						
	(Cost Alloc adjusted; soft. maint transferred from 7148)	538	(5,339)					(5,339)	(Co Contr & CMS
	3 programs/services - 3 mandated:								
	Exams & treatment for Sexually Transmitted disease,		5%						
	Communicable Disease, Tuberculosis								
	Co. Support (.02 FTE Dir \$2032)			\$4,276					
7146	ENVIRONMENTAL HEALTH	•				•			
	State	0	0			0			
	Federal	0	0		400.000	0			
	All Other	94,300	103,228		103,228				
	Total Revenue	94,300	103,228						
	Total Expenditures	68,314	96,904					0.004	
		25,986	6,324					6,324	
	4 programs/services - 4 mandated								
	Food Handlers, temporary food licenses, child care								
	inspections, licensed facilities inspections			\$0					
74.40	Co. Support (.04 FTE Dir \$4064) PERINATAL			\$ U					
7148		A 600	2 244			2 244			
	State Federal	4,682 17,000	2,341 10,841			2,341 10,841			
	All Other	73,000	111,829			10,041	111,829		
	Total Revenue	94,682	173,311				111,029		
	Total Expenditures	94,062 80,245	82,478						
	(Medicaid Adm. Claiming)	14,437	90,833					90,833	
	3 programs/services - 2 mandated	17,701	30,000					30,000	
	Maternity Case Management, home visiting, Home Visiting Network								
	Co. Support (.01 FTE Dir \$1016) MAC match			\$48,300					
				Ψ 10,000			l		

Return	to Agenda	BUD	Actuals	County contribution	Program Revenue	Restricted Revenue	Unrestricted Revenue	Net Totals	
	FUND 201	2015	2015	distribution	Revenue	Revenue	Revenue		
7149	BIOTERRORISM								
	State	3,500	3,500			3,500			
	Federal	156,474	156,522			156,522			
	All Other	0	0			, -			
	Total Revenue	159,974	160,022						
	Total Expenditures	167,928	160,220						
	(balance is MRC)	(7,954)	(198)					(198)	
	3 programs/services - 1 mandated	、 , ,	,					,	
	Public Health Emergency Preparedness								
	Co. Support (.06 FTE Dir \$6095)			\$0					
7152	HEALTH PROMOTION			-					
	Grant Funding	44,486	36,147			36,147			
	Federal	0	0			0			
	All Other	0	0						
	Total Revenue	44,486	36,147						
	Total Expenditures	44,399	46,348						
	(EOCCO pmt \$8446.30 on 7/1/15; HWC grant pd in 2014, exp in 2015)	87	(10,201)					(10,201)	(Grant)
	Not mandated								
	Co. support - none								
7153	IMMUNIZATION SPECIAL PAYMENT								
	State	8,909	8,971			8,971			
	Federal	9,509	8,971			8,971			
	All Other	0	0						
	Total Revenue	18,418	17,941						
	Total Expenditures	15,701	17,941						
		2,717	0					0	
	1 mandated program/service								
	Immunizations and vaccine tracking								
	Co. Support (.01 FTE Dir \$1016)			\$0					
7154	CACOON & CCN								
	State	23,800	54,341			54,341			
	Federal	0	0			0			
	All Other	0	200		200				
	Total Revenue	23,800	54,541						
	Total Expenditures	32,042	30,335						
	(Now tracking Cacoon TCM in 7154)	(8,242)	24,206					24,206	
	2 program/services, 1 mandated								
	Care Coordination of children with special health needs								
	Co. Support (.02 FTE Dir \$2032)			\$0					

turn	to Agenda FUND 201	BUD 2015	Actuals 2015	County contribution distribution	Program Revenue	Restricted Revenue	Unrestricted Revenue	Net Totals	
-4		2013	2013	distribution					
7155	TOBACCO	400.000				•			
	State	132,266	0			0			
	Federal	0	0			0			
	All Other	0	93,666			93,666			
	Total Revenue	132,266	93,666						
	Total Expenditures	145,374	94,250					(504)	
		(13,108)	(584)					(584)	
	1 mandated program/service								
	Tobacco Prevention & Education			*					
	Co. Support (.05 FTE Dir \$5080)			\$0					
7156	Water	10.100	4= 004			47.004			
	State	13,488	17,394			17,394			
	Federal	28,696	24,789			24,789			
	All Other								
	Total Revenue	42,184	42,183						
	Total Expenditures	44,254	40,669						
		(2,070)	1,514				1,514		
	1 mandated program/service								
	Monitoring Water Systems								
	Co. Support (.01 FTE Dir \$1016)			\$0					
7158	BABIES FIRST								
	State	85,825	194,577			194,577			
	Federal	0	0			0			
	All Other	0							
	Total Revenue	85,825	254,577						
	Total Expenditures	142,997	181,296						
	(Targeted Case Management - includes 2014 fees)	(57,172)	73,281					73,281	
	1 mandated program/service								
	Case Management for infants with health risks		_						
	Co. Support (.08 FTE Dir \$8127) TCM Match			\$60,000					
7159	OREGON MOTHERS CARE								
	State	0	2,034			2,034			
	Federal	8,701	6,104			6,104			
	All Other	0	0						
	Total Revenue	8,701	8,138						
	Total Expenditures	12,552	13,286						
		(3,851)	(5,148)					(5,148)	(MAC
	Not mandated	•	•					•	
	Assist eligible pregnant women with Oregon Health Plan								
	Co. Support (.01 FTE Dir \$1016)			\$0					
7500	DEQ PASS THROUGH								
	State	0	0						
	Federal	0	0						
	All Other	3,900	12,000			12,000			
	Total Revenue	3,900	12,000			,			
	Total Expenditures	3,900	12,000						
	•	0	0						
	Not mandated								

Return	to Agenda	BUD	Actuals	County contribution	Program	Restricted	Unrestricted	Net Totals
	FUND 201	2015	2015	distribution	Revenue	Revenue	Revenue	
7207	HOUSEHOLD HAZARDOUS WASTE							
	State	0	7,500			7,500		
	Federal	0	0			0		
	Local	7,200	7,200		\$7,200			
	All Other	304,000	167,733		167,733			
	Total Revenue	311,200	182,433					
	Total Expenditures	479,739	267,563					84,679 2014 end bal
	Carryover from 2014 \$84,679.07	(168,539)	(85,130)					(85,130) 2015 end bal
	not mandated							(450)
	Collection & disposal of hazardous materials		_		_			
	Co. Support (.19 FTE Dir, .10 FTE Bus Mgr, .23 FTE EH Supr)			\$0				
					-			
	Totals		673,090	\$571,568	\$444,033	\$1,156,587	\$684,598	\$2,285,218.48
			•		19%	51%	30%	_

Public Health in our Community

North Central Public Health District



Teri Thalhofer, RN, BSN Public Health Director

Annual Report 2014 / 15

419 E. 7th Street The Dalles, Oregon 97058

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Letter from Director



NORTH CENTRAL PUBLIC HEALTH DISTRICT

"Caring For Our Communities"

September 2015

To the Residents of Wasco, Sherman and Gilliam Counties:

North Central Public Health District (NCPHD) is truly dedicated to living our motto, "Caring For Our Communities". Public Health works to create an environment where every citizen can reach their full potential for health and well being.

Most of us expect that our food, water and air will be free of disease and that our government will help to protect our health. NCPHD was formed through an intergovernmental agreement among Gilliam, Sherman and Wasco Counties and serves the three county region. NCPHD is governed by a Board of Health consisting of one County Commissioner and two public members from each of the three counties. The Board of Health is the Local Public Health Authority, and is responsible for assuring that the residents of the District receive the essential population health services mandated by law.

Our public health programs focus on prevention—preventing unintended pregnancy, malnutrition, low birth weight babies, outbreaks of disease, tobacco use, and poor response to public health emergencies. Public health is not just for the most vulnerable members of our communities, but for all who live, work and play in the region. I encourage you to read on to find out how.

We don't do this work alone, but rather in collaborative partnership with others across the region. Included is a list of activities we participate in with our partners to improve the health of our communities.

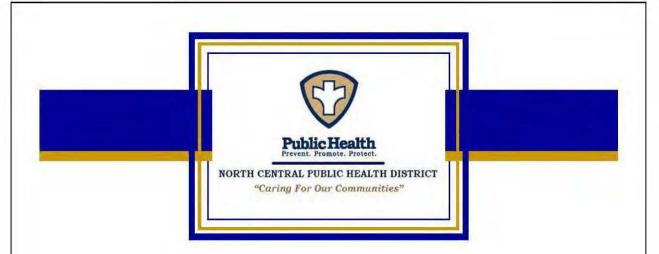
Thank you for taking the time to read this report and we look forward to continuing to serve the communities.

Sincerely,

Teri L. Thalhofer, RN, BSN

Juf. Thalhofor, RN. BSN

Director, NCPHD



Vision Statement

We strive so that one day all people will live in a safe environment free from fear of preventable diseases; that all businesses, organizations and individuals will have access to health information and have the desire to promote and be responsible for a healthy lifestyle for themselves and each other.

Mission Statement

We promote health and protect against disease to ensure the optimal health and well-being of the communities we serve.

Values

Our community shall be guaranteed access to confidential and professional public health services and shall be treated with respect while honoring individual diversity.

We conduct ourselves by always remembering:

- We relate to each other with respect and cooperation.
- We strive to communicate openly and with clarity.
- We conduct and present ourselves with the highest level of professionalism, accountability and integrity.
- We believe that a collaborative approach with community partners is the most productive and enjoyable way of doing business.
 - We believe in the value of continuous improvement and seek opportunities for personal/professional growth.
- We take pride in what we do and strive for the highest possible standards.

Department Personnel

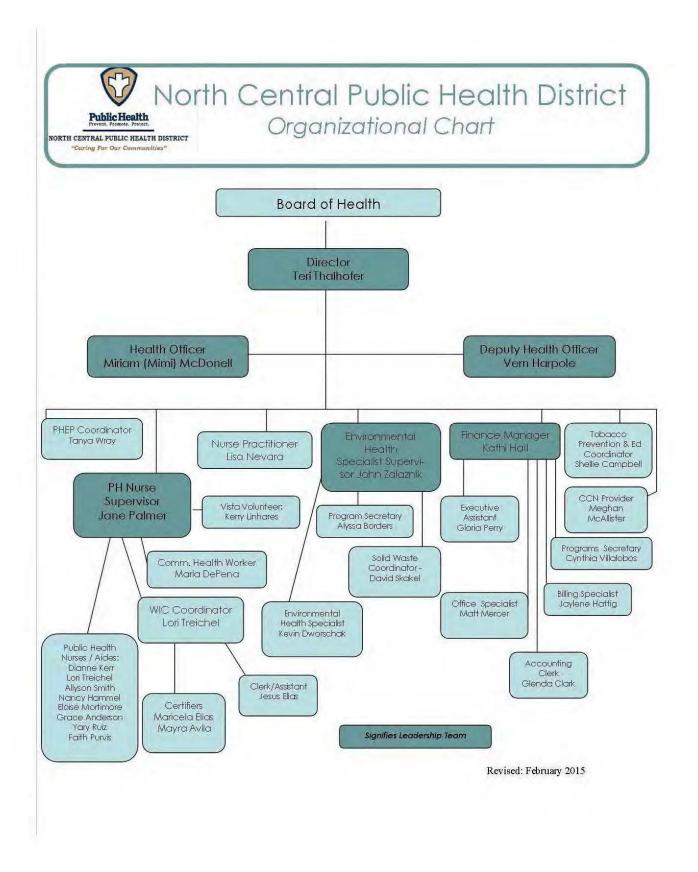


NCPHD Board Members

Commissioner Michael Smith, Chair (Sherman County)
Roger Whitley (Sherman County)
Linda Thompson (Sherman County)
Judge Steve Shaffer (Gilliam County)
David Anderson (Gilliam County)
Michael Takagi (Gilliam County)
Commissioner Steve Kramer (Wasco County)

Fred Schubert, Vice-Chair (Wasco County)

William Hamilton (Wasco County)



Public Health in Wasco, Sherman, Gilliam Counties

Protecting Our Communities from Disease

- 393 inspections were done in restaurants, schools, RV parks, pools, spas and organizational camps
- 581 members of our communities were vaccinated against preventable disease
- 502 reportable diseases were investigated
- 11 outbreaks were contained

Working Toward Healthy, Prepared Communities

- The Public Health Emergency Preparedness Program (PHEP) Coordinator provided 30 trainings to help the community prepare for a public health emergency
- The Tobacco Prevention and Education (TPEP) Coordinator provided 5 presentations to community groups around flavored tobacco products and E-cigarettes; worked with Columbia Gorge Community College student government to strengthen and adopt a new tobacco policy: worked with MCMC, City of The Dalles and North Wasco Parks and Recreation District to strengthen and expand tobacco and smoke free policies.

Working Toward Healthy Families

- 90 Pregnant women were connected to Oregon Health Plan, pre-natal care and other services
- 4212 Clients received nutrition education and food vouchers through the Women,
 Infants and Children (WIC) program
- 121 Pregnant women, children at risk of developmental delay, and children with special health care needs received 537 home visits to provide education, parenting support, developmental screening, connection to services and case management
- 615 women and men were served in the Family Planning Program last fiscal year,
 working to prevent unintended pregnancies

Community Disease Prevention & Protection

COMMUNITY NEED: Communicable (infectious) diseases can spread quickly throughout a population. Some disease can cause severe illness, untimely death, and chronic disability, as well as costly treatment.

PUBLIC HEALTH RESPONSE: Protecting people from communicable disease is a basic public health service that improves health and saves money by preventing the need for costly medical care for disease and its complications. Public health nurses and other staff investigate the causes of disease and alert the public to prevent exposure or to seek treatment. Public health clinics provide certain medical services, such as immunizations, HIV tests, and testing and treatment for sexually transmitted infections, as a safety net for those who have difficult accessing medical care because of financial or other barriers. Through education, training and regulation, disease outbreaks can be prevented.

Protection through Immunizations

COMMUNITY NEED: Infants and young children are vulnerable to vaccine-preventable diseases. Older persons and those with suppressed immune systems (such as persons undergoing cancer therapy or those who have had an organ transplant and are taking immune suppressing drugs) are also at increased risk from contagious diseases. Having sufficient people vaccinated in a population helps to create a 'herd' immunity that protects those too young or too ill to vaccinate.

PUBLIC HEALTH RESPONSE: Vaccines are offered from birth through adulthood. These vaccines prevent disease from diphtheria, tetanus, pertussis, polio, chickenpox, shingles, measles, mumps, rubella, hepatitis A, hepatitis B, haemophilus influenza typeb, pneumonia, influenza, human papillomavirus (which can cause genital cancers and warts), rotavirus, and meningococcal disease. Special clinics and campaigns are offered to improve the rates of immunizations. During last fiscal year, NCPHD provided 610 visits to community members to provide vaccines.

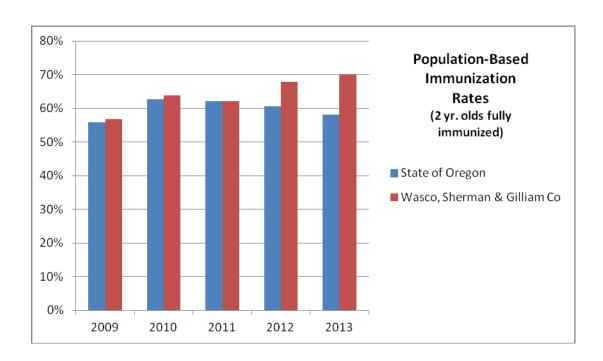
ACTIONS TO INCREASE IMMUNIZATION RATES: School Exclusion: According to Oregon State law, any child who is not up-to-date on Exclusion Day, the third Wednesday in February, will not be allowed to attend school or daycare until the needed immunizations and/or records are brought up-to-date. During the 2014-2015 fiscal year 160 letters were mailed to families informing them of impending exclusion, but only 29 were excluded. That compares with the previous year when 192 letters were sent and 40 children were excluded

Return to Agenda

from school on the third Wednesday of February. Most children received the required immunizations to return to school. Some parents chose to sign a religious exemption in order for the child to return to school. This decrease in exclusions is likely due to greater messaging around the changes to the Religious Exemption law to both parents and providers, and partnership with local schools.

COMMUNITY CLINICS: Immunizations were available Monday –Friday 8:30-12 and 1-5 at the NCPHD office in The Dalles throughout the 2014-2015 fiscal year. Additional clinics were held twice at the Arlington Clinic. The NCPHD Immunization Program also worked closely with the Condon Clinic to ensure that the Vaccines for Children Program (VFC), a program that provides no-cost immunizations to uninsured children and children on the Oregon Health Plan (OHP), was available in Gilliam Counties.

POLICY WORK AND COMMUNITY OUTREACH: In NCPHD, as in all of Oregon, complete immunization up-to-date rates for 2 year olds have been falling. This trend puts our most vulnerable children at risk for vaccine preventable disease. There are many theories about the falling rates, but the evidence shows that it is tied to large volumes of inaccurate information about the risks associated with vaccines that can be found on the internet and social media. NCPHD staff work in partnership with local and state providers to reverse this trend. We provided information and outreach last year at County Fairs, WIC clinics, Story Time at the library in The Dalles, and other local community events. We provide consultation and technical assistance to local primary care providers on a regular basis. Our health officers have been active in policy work through the Coalition of Local Health Officials Health Officers Caucus. The Caucus worked to strengthen Oregon's Religious Exemption law to include a required education component before parents could choose opt out of vaccination using this exemption.



Communicable Disease Investigation & Control

COMMUNITY NEED: We tend to take for granted that we will not become ill from the food we purchase and the water we drink. We also expect to have little exposure to many diseases that are no longer common in the population, due to public health measures and vaccines. However, sometimes the control measures break down, and people get sick, or a new emerging infection appears (e.g. Ebola). Worldwide travel is common, and new infections can spread quickly.

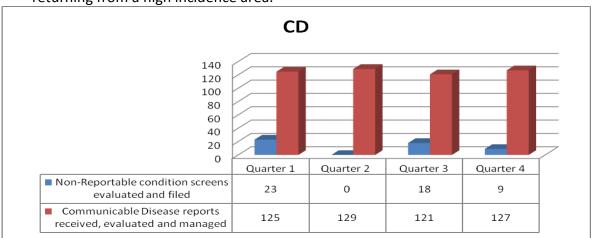
PUBLIC HEALTH RESPONSE: Physicians and labs are required by law to report to their local health department over 50 communicable diseases and conditions, such as E. coli, Tuberculosis, Salmonella, Hepatitis A and sexually transmitted diseases such as Chlamydia and Gonnorhea. Our Communicable Disease Program is responsible for the investigation of all these reported diseases, both confirmed and suspected. We have a nurse available 24/7 to take these reports.

Follow up investigations can be as simple as one or two phone calls, or involve hours, to days of work and multiple staff, depending on the disease and number of people who have come in contact with the infected person. In our investigation process, we may be seeking the source of the infection, (e.g. food, water or another person), finding all those who have been exposed, and assuring that those who are exposed get appropriate health care and advice to prevent further spread of the disease.

In addition to investigation of communicable diseases, NCPHD offers testing for sexually transmitted infections including HIV, and Tuberculosis.

Highlights:

- In 2014-2015 there were 10 Outbreaks of Communicable Disease in Wasco County and 1 in Gilliam County
- Spring of 2015 brought Ebola to the United States and the CD team, in partnership with Public Health Emergency Preparedness spent many hours working with community partners across the region to prepare for a case of Ebola, or a community member returning from a high incidence area.



Food, Pool, and Traveler's Safety

COMMUNITY NEEDS: Communities expect that their visitors will have clean and safe accommodations. They expect that public pools and spas will be free of disease causing germs. They expect that restaurants, schools, organizational camps and day care facilities will serve food safely. Communities also expect that day care facilities will be free of environmental injury risks.

In addition, there are circumstances that require special attention to maintain safety. The high turn -over rate of personnel in the food service industry creates the need for ongoing food safety training. Also of concern is the number of 'casual' food handlers. During the spring, summer and early fall, food focused fund raising events are hosted by volunteers who are tasked with serving food safely without the benefit of a licensed kitchen and professional staff.

PUBLIC HEALTH RESPONSE: Virtually every person residing in or traveling to Gilliam, Sherman and Wasco Counties benefitted from the NCPHD's efforts to protect the public's health. Restaurants were inspected twice a year. Online food handler classes were promoted. Temporary and benevolent permits were issued along with consultation and technical assistance to ensure safe food handling practices. In addition, technical assistance was provided to organizational camps prior to the start of their operational year to prevent and contain outbreaks of illness among campers.

Drinking Water Protection & Safety

COMMUNITY NEED: People who consume water from public water systems expect that the water is safe to drink. There is the potential for serious health problems if drinking water is contaminated by chemicals or microbes (bacteria, viruses, and/or parasites). Water contamination may result in illness or even death. Disease outbreaks are usually linked to bacteria or viruses, probably from human or animal waste.

In Oregon there are many private wells and springs used by one or two homes. No public health resources are funded to assure the safety of these home water sources. The risks of these sources may only be considered after members of a household are diagnosed with a reportable communicable disease that may have come from contaminated drinking water.

PUBLIC HEALTH RESPONSE: Public Health services are intended to assure good quality water, i.e. "water which is sufficiently free from biological, chemical, radiological or physical impurities such that individuals will not be exposed to disease or harmful physiological effects".

NCPHD has oversight over small public water systems in the District (serving 4 or more connections or <3000 users). Services in the drinking water program primarily help public

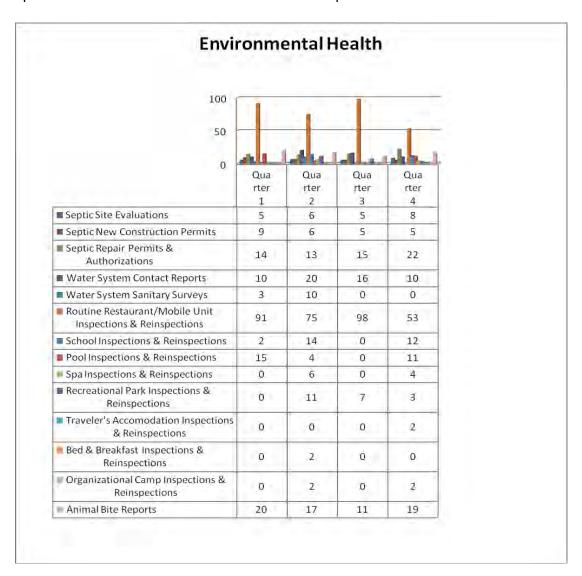
Return to Agenda

water system operators sort through the maze of rules which help to assure the quality of the drink water. Water system operators are required to take steps to physically protect the water and regularly sample for potential contaminants. If problems are noted, our staff work with the water system operators to assure that water users are notified of risks, and problems are corrected.

Last year, NCPHD staff also work with the Incident Command staff of the Rowena Fire to protect small public water systems within the incident.

NCPHD has no regulatory role with **private systems.** However, information is offered to empower residents using private wells or streams to obtain safe drinking water, including brochures about ensuring and developing safe drinking water sources.

NCPHD also works to ensure the ground water remains safe through the subsurface (septic system) and solid waste programs. The subsurface program works with local land owners, developers and installers to ensure that solid waste disposal is done in a safe manner.



Public Health Emergency Preparedness and Response

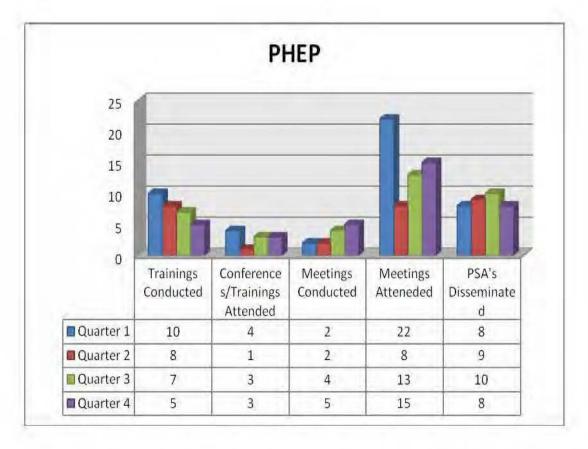
COMMUNITY NEED: People living in or visiting Gilliam, Sherman and Wasco Counties could be at risk of physical harm or even loss of life as a result of natural and man-made disasters including wildfire, winter storm, wind storms, chemical spills and pandemic illness.

PUBLIC HEALTH RESPONSE: The NCPHD PHEP program, in partnership with the Emergency Managers in Gilliam, Sherman and Wasco Counties, coordinate the health and medical response functions during a declared emergency or public health event. During the last fiscal year, the program focused on continuing to strengthen the Medical Reserve Corp, a group of local volunteers receiving training to respond to a local or statewide emergency. The program also worked to convene partners in Emergency Medical Services (EMS), law enforcement, and the local medical providers to coordinate the local response plan for Ebola. Meetings were held across the District to provide information and seek input from a variety of partners. Through the end of the fiscal year, NCPHD did not experience a case of Ebola, nor did we have a person under monitoring (PUM) within the District. Work continues with the partners convened around this emerging disease to continue to prepare for emerging infectious diseases.

ADDITIONAL PROGRAM HIGHLIGHTS

- The PHEP Coordinator worked with partner agencies during the summer wildfire season across the NCPHD region regarding air quality, affected water systems, shelter inspection and coordination, Oregon Smoke conference calls, and acted as a liaison between MCMC, NCPHD and County Emergency Managers
- The PHEP Coordinator applied for and received a MRC Capacity Building Grant.
- The PHEP Coordinator applied for and received notice of award for State Homeland Security Grant to purchase a tent / trailer for MRC members for First Aid.
- Performed annual Fit Testing for all staff.
- Promoted Do1Thing Project for staff at meetings, and community through bulletin board.
- Organized and participated in the 2nd annual MRC Blanket Drive to benefit The Warming Place in The Dalles
- Participated in the Northwest Cherry Festival Safety Fair, created and distributed earthquake preparedness information in partnership with MRC at the premier of the movie San Andreas in The Dalles.

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Chronic Disease Prevention

Chronic Disease Prevention Services

COMMUNITY NEED: Gilliam, Sherman and Wasco Counties, as elsewhere in Oregon and the United States, are facing and epidemic of chronic disease that threatens to overwhelm our resources. Oregon chronic disease data from 2010-2013 tells us that residents of Gilliam, Sherman and Wasco Counties have rates of heart attack, arthritis and asthma above the Oregon average. The data also shows us that residents engage in behaviors that put them at risk for chronic disease more often than Oregonians on average, including drinking seven or more sodas a week, smoking cigarettes, using smokeless tobacco, consuming fewer than 5 fruits or vegetables per day, and maintaining a weight considered obese.

Tobacco Prevention and Education Program

COMMUNITY NEED: Tobacco is the single greatest preventable cause of disease and death. For every person who dies of tobacco use, there are as many as 20 others suffering from a tobacco related disease. Tobacco contributes especially to heart and other cardiovascular disease, cancer, and respiratory disease—both chronic and acute. Because tobacco use affects every cell in a person's body, tobacco contributes to many other diseases as well, such as complications of diabetes.

PUBLIC HEALTH RESPONSE: The goal of the NCPHD Tobacco Prevention and Education Program (TPEP) is to reduce the burden of tobacco use in the District, i.e., the illness, death, disability and economic costs. Best practices research indicates that one of the most effective ways for communities to bring about sustainable change in social norms and decrease tobacco use is to create smoke free environments.

Effective, evidence-based tobacco prevention requires the participation of the entire community. Changing policies and the community's acceptance of tobacco is very important, because research shows that educating our children about the harmful effects of tobacco is not sufficient to counter the pro-tobacco myths about the use, value and acceptability of tobacco that the been ingrained into our culture by deceptive tobacco advertising.

Program Highlights

- Provided presentations to community groups and stakeholders about flavored tobacco products and E-cigarettes.
- Worked to inform members of the Columbia Gorge CCO Community Advisory Council about tobacco cessation benefits available to covered members.
- Worked with students at CGCC to strengthen the tobacco policy at campuses in The Dalles and Hood River.

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- Provided consultation to City of The Dalles, North Wasco County Parks and Recreation District and MCMC on strengthening current tobacco policies
- In conjunction with the Maternal Child Health Team (MCH) at NCPHD, supported by a
 grant from the March of Dimes, offered motivational interviewing training to all
 community partners providing a touch point for pregnant women. Community partners
 included medical providers, community based home visiting services, early education
 providers, and community health workers.
- Supported the MCH Team to implement 2A's and an R (an evidenced based intervention to ask about tobacco use, assess willingness to stop using tobacco, and referring to the Quit Line) for every encounter with family planning clients, WIC adult and teen clients and adults and teens encountered during homevisiting.

North Central Public Health District Tobacco Fact Sheet, 2014

Return to Agenda Tobacco's toll in one year:

- √ 4,200 Adults who regularly smoke cigarettes
- √ 98 People with a serious illness caused by tobacco
- √ 5 Tobacco-related deaths
- √ \$15.2 Million spent on tobacco-related medical care

Population:					
Youths 6,648					
Adults	22,887				
Total residents	29,535				
\$12.1 Million					
In productivity losses due to premature tobacco-					
relate	ed deaths				

Among tobacco retailers assessed in North Central	Components of a comprehensive tobacco
Public Health District	prevention program
 ✓ Nearly 1 in 2 advertised tobacco outside ✓ 100% sold flavored tobacco ✓ Nearly 8 in 10 sold tobacco at discounted prices ✓ \$1.05 was the average price of a single, flavored little cigar 	Oregon's Tobacco Prevention and Education Program (TPEP supports local public health authorities to serve all 36 counties and nine federally-recognized tribes. TPEP works to: ✓ Engage communities in reducing the tobacco industry influence in retail stores ✓ Increase the price of tobacco ✓ Promote smokefree environments ✓ Provide support and resources to Oregon smokers who want to quit ✓ Engage diverse populations of Oregonians

Adult Cigarette Smoking

North Central Public Health District	20%
All other Oregon counties	19%

Cigarette smoking among adults in North Central Public Health District is similar to the rest of Oregon.

Cigarette Smoking during pregnancy

North Central Public Health District	Oregon 2008 – 2012	US 2008 – 2012
2008 – 2012 15%	11%	9%
1370	11/0	3,0

Cigarette smoking among pregnant women in North Central Public Health District is **higher** than Oregon overall and the rest of the United States.

Youth cigarette and non-cigarette tobacco use

8 th Grade	Cig. Smoking	6%
	Non-cig tobacco use	8%
11 th Grade	Cig. Smoking	12%
	Non-cig tobacco use	20%

Among 11th graders in North Central Public Health District, noncigarette tobacco product use is **about 50% higher** than cigarette smoking.

Working Toward Fit and Healthy Children

COMMUNITY NEED:

The rate of childhood obesity in Wasco County exceeds both the state and national levels. More than one in three children in our county is clinically obese, meaning they have a body mass index, or BMI, greater than the 85% percentile. Perhaps for the first time in our county's history, our children will not have a healthier life than their parents nor will they likely live as long. Numbers of children in Gilliam and Sherman Counties are too small to provide statistically reliable data, but raw numbers suggest similar issues among children in these counties as well.

COMMUNITY RESPONSE: Through a grant from Columbia Gorge CCO, NCPHD was able to secure an Oregon Solution declaration and project manager from the Governor's office. This Oregon Solutions project team is dedicated to reducing childhood obesity in Wasco County. The project team commits to creating a healthier built environment for our children's sake; educating and informing our community to change community norms around the importance of proper nutrition and being active; and working collectively and collaboratively to change the things we can within our own organizations and within the community to reduce the likelihood of childhood obesity. The collaborative group includes over 20 local partners as diverse as health care, education, restaurants and local government who have all signed "Declarations of Cooperation" committing to work together to address issues around access to nutrition and activity for children and families in our region. Initially the work will be focused on The Dalles Area, but with success and experience, will expand to the rest of the District.



Promoting Healthy Families

COMMUNITY NEED: Healthy families are a foundation for a healthy community. Society also benefits when children are intended, raised in stable and attached families, and arrive at school ready to learn.

PUBLIC HEALTH RESPONSE: Public health services, including Family Planning and Reproductive Health, Home Visiting Programs and the WIC Nutrition Program help individuals and families realize their goals in having planned pregnancies, good birth outcomes for both mother and child, and well nourished children who have the best possible start in life.

By working upstream with families, public health prevention programs save tax payer money, such as the cost of remedial education for pregnant teens, and the necessary remedial services for child abuse and neglect. We also help families access medical services: Oregon Mothers Care program assists pregnant women with the application process for the Oregon Health Plan as well as connections to other services, and the CaCoon and Babies First! Nurse Home Visiting Programs help connect children with Special Health Care needs and at risk of developmental delay to a medical home.



Family Planning / Contraceptive Services

COMMUNITY NEED: Women of childbearing age who lack health insurance often cannot afford an annual exam or the high cost of contraceptives. In addition, women and teens with fewer personal resources often have trouble accessing care through the traditional health care system due to issues with unstable housing, transportation, and work schedules.

With an unintended pregnancy the MOTHER is

- Less likely to seek prenatal care in the first trimester
- Less likely to breastfeed
- More likely to expose the fetus to harmful substances, such as tobacco or alcohol
- Less likely to be married, which has financial and social consequences
- More likely to have an induced abortion
 With and unintended pregnancy, the CHILD has a greater risk of
- Low birth weight

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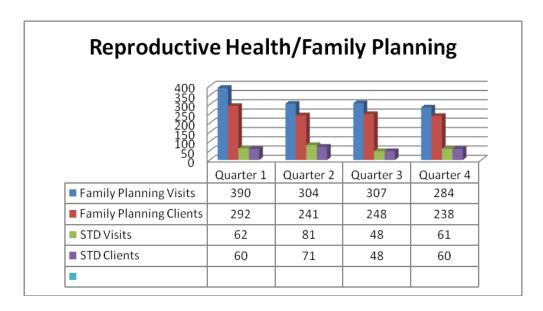
- Dying in the first year
- · Being abused and
- Not receiving sufficient resources for healthy development

It is generally understood that teen pregnancy creates a challenge for the health of the teen mother and her baby that can have long term consequences in education, earning potential and cost to society. In 2014, the NCPHD teen pregnancy rate per 1000 females age 15-17 was 12.5. This is only slightly higher than the state rate of 12.4 per 1000.

PUBLIC HEALTH RESPONSE: Our mission in Family Planning is to help our clients make informed decision for their lives that allow them to have children when they are physically, emotionally and financially ready to parent, and when children are wanted and planned.

An unintended pregnancy is expensive not only for the family, but also the tax payers. In the Oregon Family Planning Program, data shows that for every \$1 spent, \$5 is saved by the taxpayer in prenatal, labor and delivery, and infant health care costs for every unintended birth. That is an impressive return on investment.

Access to Family Planning services has helped to decrease unintended pregnancy and prevent abortions. At NCPHD, we offer the Federal Title X Family Planning program, which provides services on a sliding scale, based on income and ability to pay. Many women and teens qualify for the Contraceptive Care Project (CCare), which is a special Medicaid program for those seeking contraception who do not have insurance and are below 185% of the poverty level. With the expansion of the Oregon Health Plan, we work with clients to seek care at their Primary Care Home if possible. NCPHD offers a variety of birth control methods, women's health exams, pregnancy testing, options counseling, and general reproductive health consultation. Abortions are not provided. In the 2014-2015 fiscal year, 615 men and women received services through the NCPHD Reproductive Health Clinic

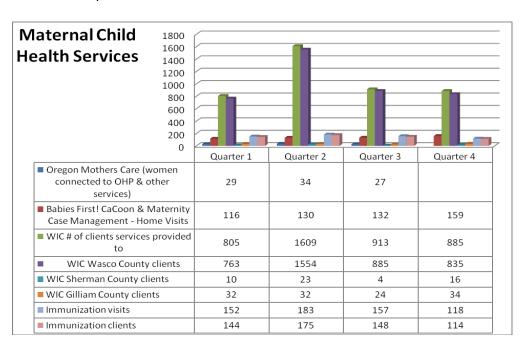


MATERNAL CHILD HEALTH SERVICES

COMMUNITY NEED: Families and communities can be stronger when the needs of those most vulnerable are met. Important resources include access to medical care, connection to resources, education, and vouches for nutritious foods.

PUBLIC HEALTH RESPONSE: NCPHD staff provides a coordinated response for families from prenatal to age 21 in some cases. Oregon Mothers Care connects pregnant women to the Oregon Health Plan, prenatal care and other services; WIC is a federal public health nutrition program that provides proper nutrition, education, and referral to needed services, which helps to prevent more serious and costly health problems; Nurse Home Visiting Programs, such as Maternity Case Management, Babies First! and CaCoon provide developmental screening, referral to resources, education and coordination of care to pregnant women on OHP, children at risk of developmental delay, and children and youth (up to age 21) with special health care needs. These programs help families access care for preventative services to decrease the use of more costly acute care services, help families access stable housing and transportation, and provide information about nutrition, activity, normal child development and parenting.

Of the 102 children receiving a Babies First home visit last fiscal year, 86 of those children received the Ages and Stages Questionnaire (ASQ). The screen helps determine which children may need additional services and referrals to stay on track to reach developmental milestones. Nurses share ASQ's with the child's primary care provider, with the parent's permission. Children who did not receive the screen may have dropped out of the program prior to a screen being performed with parents.



Administrative Functions

Administrative Functions

The public health leadership team includes the Director, Nursing Supervisor, Registered Environmental Health Supervisor, Finance Manager and Health Officer. With the assistance of the executive assistant and accounting clerk, the leadership team assures compliance to public health program standard, manages 26 employees and providing the support they need to do their jobs, and managing the finances of the NCPHD. Significant time is spent in budget development and fiscal monitoring of the revenues and expenses according to District and federal requirements.

In addition, the leadership team has been working toward National Accreditation through the Public Health Accreditation Board. The goal of the voluntary national accreditation program is to improve and protect the health of the public by advancing the quality and performance of Tribal, state, local, and territorial public health departments.

PHAB's public health department accreditation process seeks to advance quality and performance within public health departments. Accreditation standards define the expectations for all public health departments that seek to become accredited. National public health department accreditation has been developed because of the desire to improve service, value, and accountability to stakeholders.

The leadership team duties included the following activities:

- Personnel management, including scheduling, record keeping for payroll, and adherence to labor laws
- Employee recruitment, hiring, training and performance evaluations
- Materials management, including tracking inventory and troubleshooting IT problems
- Electronic Health Record and Electronic Fiscal System management
- Assuring compliance to contractual requirements for many public health programs, as
 well as adherence to local, state and federal laws, and assuring that employees who are
 in regulatory functions are administering laws appropriately
- Contract development and administration for individuals and agencies who assist in the implementation of public health programs

NCPHD Leadership Team also interacted with the community on many levels:

- Developing informational and promotional materials, including web-based media
- Responding to requests for information from the public and the news media on public health topics and programs
- Advocating for action to improve the health of the community
- Serving on state and local committees which make decisions on the distribution of millions of federal dollars throughout the state
- Grant writing to bring in additional program dollars

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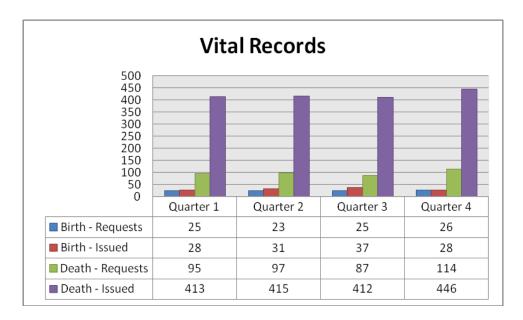
- Collaborating with community partners on application and implementation of grant funded projects
- Presentations and meetings to local elected official
- Collaboration with both CGCCO and EOCCO on community health assessment and community health improvement plans

In addition to direct supervision of program staff, the leadership team also performed many functions in specific programs which were non-administrative, as well as being cross trained to perform work when employees were out due to illness, training, community response, or vacancies in positions.

The Health Officer and Deputy Health Officer also review all policies and protocols which are implemented under their authority. They provide consultation to nursing staff, medical providers and other community partners. The Health Officers were vital in planning and coordinating the Ebola response.

Vital Records

One of the 10 essential functions of public health is to collect and analyze health data. Vital records of birth and death information are a source of health indicators. Many details related to health are noted at the time of birth and death by the attending medical providers. Examples on a death certificate are the *immediate cause of death* and *other significant conditions contributing to death*. Data from the birth certificate includes information such as when prenatal care began, medical risk factors for the mother and weight gain during her pregnancy. These confidential health facts or data are collected on-line through a secure webbased system and compiled by the State to give us a picture of the health of our District and the state as a whole.



Community Involvement

NCPHD staff participated in many local and state organizations, coalitions and task forces this past year. Our staff represented the public health perspective, lent their expertise, and joined with others in our communities to work on significant issues that help to make our community a better place to live:

Regional or Statewide and Local

- Oregon Early Learning Council
- ELC-Oregon Health Policy Board Subcommittee
- Association of Oregon Public Health Nursing Supervisors
- Conference of Local Environmental Health Supervisors
- Health Officers Caucus
- Public Health Administrators of Oregon
- Conference of Local Health Officials
- Regional PHEP Collaborative
- Regional Hospital Preparedness Program
- Wasco County Early Childhood Committee
- NWCSD #21 P3 Committee
- Gilliam County Early Childhood Committee
- Sherman County Early Childhood Committee
- Gilliam County Community Advisory Committee to EOCCO
- Sherman County Community Advisory Committee to EOCCO
- Columbia Gorge CCO Community Advisory Committee
- CGCCO Clinical Advisory Panel
- CGCCO Maternal Child Health subcommittee
- Bridges to Health workgroup
- 4Rivers Early Learning HUB Governance Board
- Wasco County Solid Waste Advisory Committee
- Local Public Safety Coordinating Councils for Gilliam, Sherman and Wasco Counties
- PTAB—Prevention and Treatment subcommittee of MCCFL
- Regional Community Health Worker workgroup
- Youththink
- Mid-Columbia Breast Feeding Coalition
- Multi-disciplinary teams for Gilliam, Sherman and Wasco County
- Wasco County Home Visiting Network
- Community Connections Network
- HAVEN/NCPHD Safer Futures Leadership Team
- HPP Exercise Committee
- Get Ready The Dalles
- Great Oregon Shakeout
- Region 6 ESF

Information

For questions or information regarding this report, please contact Teri Thalhofer, RN, BSN, Public Health Director, at (541) 506-2600, ext. 2614. Or terit@co.wasco.or.us

Non-Discrimination Policy:

NCPHD does not discriminate against any person on the basis of race, color, national origin, age, gender, religion, marital status, sexual orientation or disability in the admission to or participation in its programs, services or activities, or in employment. For further information regarding this non-discrimination policy, contact Gloria Perry, NCPHD Human Resources, at (541) 506-2600 ext. 2626.

Agenda Item Economic Development Commission Quarterly Report

• Staff Report

Wasco County Economic Development Commission Report to the Wasco County Board of Commissioners

September 2015

The Wasco County Economic Development Commission and its staff through the Mid-Columbia Economic Development District provided the following services in support of Wasco County:

Role Update Transition

Over the last several months, the EDC has come together in its committees to determine the best way to implement the new role outlined through the updated order from the Board of County Commissioners. To do this, staff has been working with each of the following committees to support countywide economic development priorities and specific community projects that increase capacity at the local level.

Dufur Water System Committee

The Dufur Committee is focused on Dufur's water system needs. EDC Commissioners Mary Kramer and Kathy Ursprung are leading this project with support from staff. The group is working with Mayor Wallace in addressing pressing issues related to their artesian well pressure in addition to gathering information needed to begin pursuing the broader system assessments. Conducting this work will ensure Dufur is able to continue to provide water to its community into the future and support potential growth in their downtown business district as well as for residential development opportunities.

Mosier Infrastructure Committee

This effort is spearheaded by EDC Commissioners Terry Moore and Gary Grossman. The EDC provided letters of support to several projects, and continues to be of assistance to the City as needs arise moving forward. The City of Mosier was awarded a Transportation Growth Management Grant from ODOT and DLCD to create a transportation system plan to guide investments moving forward. Additionally, they have submitted a letter of interest to conduct an updated assessment of their water system focused on their well challenges and exploring additional storage opportunities. EDC Commissioner Moore is also engaged in conversations in Mosier related to exploring siting opportunities for their fire station as well. The next EDC meeting will be held in Mosier, and provide an opportunity for continued dialogue.

Wamic Water System Committee

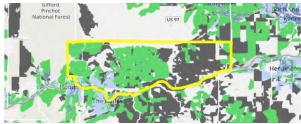
EDC Commissioners Joan Silver and Greg Johnson and staff have been working with the Wamic Water & Sanitary Authority to address their upcoming system needs. EDC Commissioners Joan Silver and Greg Johnson are leading this effort. IFA staff were invited to meet with the Wamic Water & Sanitary Authority Board to discuss potential funding opportunities, and subsequently worked with WWSA to submit an initial letter of interest for the OHA Safe Drinking Water Planning Grant Program, which was followed by a full letter of interest at OHA's request. Additionally, EDC Commissioners Silver and Johnson met with the WWSA Board in July along with a representative of the Rural Community Assistance Corporation to discuss next steps for the system and learn about its current state. Following up on this visit, RCAC is working with the Board to plan for an assessment of system management, discuss best practices, and identify opportunities for additional training. Lastly, the WWSA board will also host an SDAO circuit rider to provide technical assistance related to beginning to update their system assessment study.

Broadband

One of the strategic priorities for the EDC has been supporting expansion of broadband in our rural communities and promoting adoption of those services for businesses and residents.

- Staff worked with the South Wasco Alliance Internet Capacity Committee to collect 224 Broadband Demand Surveys. Results have been presented the results of that survey at three South Wasco Alliance meetings in Wamic, Shaniko, and Antelope in addition to the Regional Solutions Advisory Committee. Staff is currently working with the Committee to gather information on assets available throughout the county related to broadband. This has included meetings with partners focused on health care, public safety, public works, natural resources, and education as well as several businesses. This information will be shared with internet service providers.
- Staff has been working with members of the North Central Regional Solutions team to provide support as broadband access is one of the top priorities for our region, and funded with \$1.2 million. Staff continues to work with the project proponents, private internet service providers, and other public funding sources to identify leverage opportunities that might increase the reach of these projects.
- Staff has engaged with the Lower John Day ACT staff related to ODOT opportunities to support broadband development in the region. At their August meeting the group discussed consideration of broadband infrastructure related to improving transportation system efficiency and safety as part of their project prioritization process. ODOT staff are continuing to develop this discussion with MCEDD and other local partners.
- The Connect America Fund II program through the FCC provides support for certain major carriers to increase broadband service in rural areas. These carriers

were offered support based on a cost formula, and in return for taking support are required to provide service to all those in the eligible areas within six years. Staff worked to provide information gathered from efforts



throughout the region to our major carrier, CenturyLink, as they made decisions regarding the support. In August, CenturyLink opted to take the funding available in both Oregon and Washington. Maps of eligible areas, and funding provided, can be found here: https://www.fcc.gov/maps/connect-america-phase-ii-final-eligible-areas-map. For Wasco County, this will mean \$671,366 per year for the next year to serve an additional 1,354 locations in the County.

Open for Business Committee: The Open for Business Committee has expanded to include EDC Commissioners Daniel Hunter and Nan Wimmers in addition to Fred Justesen and Kathy Ursprung. This conversation has centered around exploration of two potential initial projects. First, community members have identified web presence as vital to supporting community and economic development throughout the County, but capacity is challenging. This group is currently conducting outreach around the County to determine demand for this project. Second, the group is gathering input on opportunities to better coordinate economic development efforts related to business recruitment, retention, and expansion around the County to ensure that gaps are identified

and duplicate services are avoided if possible. This is still in the exploratory phase, and is being coordinated with other efforts in the County.

Community Enhancement Projects

Updates on additional Community Enhancement Projects:

- As part of the update process, the EDC is now requesting that project owners provide updates as the quarterly meetings held in each community. This will allow the EDC to get to know both ongoing and upcoming projects better through additional conversation with project proponents.
- At the EDC's June meeting in Dufur, presentations were given by several entities in Dufur. This included Dufur Schools, the City of Dufur, Dufur Chamber of Commerce, Dufur Historical Society, and Dufur Parks & Recreation. EDC Commissioners were able to have additional dialogue with project owners at this time, as well as learn about community priorities. Positive feedback was provided by both community representatives and EDC Commissioners for this new format.

Investing in Manufacturing Communities Partnership (IMCP)

The Pacific Northwest Manufacturing Partnership (PNMP) was awarded an IMCP Phase II designation this spring. This will give priority on federal application with participating agencies, including USDA. This could have a significant impact on Wasco County projects. Staff submitted a letter of support from the EDC for the project in March, and MCEDD is engaged in conversations around opportunities that could arise as a result.

General EDC Activities:

EDC staff provided the following support services:

• Columbia Gorge Bi-State Renewable Energy (CGBREZ): CGBREZ met in August and June. The Government Affairs Specialist, David Van't Hof, hired by members of the group to support opportunities to connect with the California markets had generally



positive results working with others during California's legislative session.

• NORCOR Property Group: The County has requested that the EDC support convening a group of identified stakeholders to determine the marketability and suitability for selling or leasing the additional acreage owned by NORCOR and located to the west of the facility. The group will also determine the remaining development costs required to meet these objectives. This process will take approximately six months.

Activities of Interest to the EDC

• The Gorge Hubs Project has received a Transportation Demand Management (TDM) grant from DLCD and ODOT to create a design framework for these bike and pedestrian stations that will be located along the Historic Columbia River Highway from Troutdale through to The Dalles. These designs are available online through ODOT. Additionally, the Portland Wheelman's group will be donating repair stations to each station along the way. These will be installed this

- fall, along with "Coming Soon" signs as the Hubs determine the best course of action for seeking funding to build out the stations.
- Through work with the Columbia Gorge Cider Society, staff supported the Northwest Agricultural Business Center in bringing their Cider Principles & Practice class to Columbia Gorge Community College. The class toured Mosier Cidery Rack & Cloth as part of their activities. Through this effort, staff also hosted an outreach meeting with local cideries and the Northwest Cider Association.
- MCEDD worked with the Columbia Gorge Winegrowers Association to submit two grant applications to support developing marketing tools to support Gorge Wine Country this summer. One to the Rural Business Development Grant program through USDA focused on developing a marketing strategy and hosting marketing trainings for wineries and other beverage businesses. And an additional project submitted to Travel Oregon's new Wine Country License Plate Matching Grant Program to develop itineraries featuring local wineries, lodging, and restaurant partners for off season visits.

By The Numbers

Source: Oregon Employment Department

• Unemployment rate (seasonally adjusted)

	July 2015	June 2015	July 2014
Oregon	5.9%	5.5%	7.0%
Wasco County	5.6%	5.3%	6.4%

• Total Nonfarm Payroll Employment (Not Seasonally Adjusted)

	July 2015	June 2015	July 2014
Oregon	1,772,100	1,778,700	1,713,300
Wasco County	10,600	10,380	10,530

Agenda Item **2015** Fair Report

- No documents have been submitted for this item
 - RETURN TO AGENDA

Agenda Item Community Corrections Agreements

- IGA 5138 between Department of Corrections & Wasco County
 - o 2015-2017 Wasco County Budget Summary
- M57 Supplemental Funds Grant Summary
 - o IGA 5180 M57 Supplemental Funds Grant
 - o M57 Budget Summary

INTERGOVERNMENTAL AGREEMENT #5138 BETWEEN THE STATE OF OREGON AND WASCO COUNTY

This Agreement is between the State of Oregon acting by and through its Department of Corrections, hereafter called DEPARTMENT, and Wasco County, hereafter called COUNTY.

Whereas, DEPARTMENT is an agency of the State of Oregon and COUNTY is a unit of local government of the State of Oregon and both parties desire to cooperate by agreement to provide correctional services in COUNTY within the requirements as authorized by ORS 423.475 to 423.565;

Whereas, the Legislative Assembly of Oregon enacted legislation establishing shared responsibility between county corrections programs and the Department on a continuing basis (ORS 423.475 to 423.565);

Whereas, ORS 144.106 provides "the supervisory authority shall use a continuum of administrative sanctions for violations of post-prison supervision";

Whereas, ORS 144.334 provides that the Board of Parole and Post-Prison Supervision may authorize issuance of citations by supervising officers;

Whereas, ORS 144.343 provides that the Board of Parole and Post-Prison Supervision may delegate the authority to impose sanctions as provided in ORS 144.106 and to continue a violator on parole or post-prison supervision with the same or modified conditions:

Whereas, ORS 423.478(2)(a) - (f) assigns responsibility for all offenders on probation, parole, post-prison supervision and those offenders sentenced or revoked for periods of one year or less, and on conditional release to COUNTY;

Whereas, ORS 137.545 and 137.595 provide that courts may delegate the authority to parole/probation officers to impose sanctions for probationers through a system of Structured Sanctions; and

Whereas, ORS 423.555 requires DEPARTMENT, with cooperation from COUNTY, to establish and operate a Statewide Evaluation and Information System and to monitor effectiveness of corrections services provided to criminal offenders under ORS 423.500 to 423.560.

Now, therefore, THE PARTIES HERETO, in consideration of the mutual promises, terms and conditions hereinafter provided, agree to the following:

I. DEFINITIONS

- A. <u>Amendment:</u> Any change to this Agreement that alters the terms and conditions of the Agreement, effective only after all parties have signed and all approvals have been obtained. Plan Modifications are **NOT** Amendments.
- B. <u>Budget Summary</u>: The part of the County Corrections Plan that reflects the amount of County Corrections Grant funds granted by DEPARTMENT to COUNTY to implement the programs in the Plan. The Budget Summary is attached to this Agreement as Exhibit A.
- C. <u>Community Corrections Manager</u>: Individual designated by COUNTY pursuant to ORS 423.525 as responsible for administration of the community corrections programs as set forth by the Plan.
- D. <u>County Corrections</u>: All County agencies and officials who carry out the responsibilities in ORS 423.478(2)(a)-(f).
- E. <u>County Corrections Plan (Plan)</u>: A document developed by the Local Public Safety Coordinating Councils and adopted by COUNTY's governing body pursuant to ORS 423.525 and 423.535 and received by DEPARTMENT's director or designee.
- F. <u>County Corrections Plan Modification</u>: A written change or alteration to the County Corrections Plan promulgated by COUNTY modifying the Plan subject to ORS 423.525, effective upon the date the written change or alteration has been submitted to the DEPARTMENT representative under this Agreement.
- G. <u>County Corrections Grant</u>: Grant(s) made by DEPARTMENT to assist COUNTY in the implementation and operation of county corrections programs including, but not limited to, preventive or diversionary correctional programs, probation, parole, post-prison supervision work release and local correctional facilities and programs for offenders.
- H. <u>Sanctions or Structured Sanctions</u>: A response to offender violations of conditions of supervision that uses custody units.
- I. <u>Statewide Evaluation and Information System</u>: The Corrections Information Systems (CIS) including the Offender Profile System (OPS), the Integrated Supervision Information System (ISIS), Case Management for Institutions (CMI), Offender Management System (OMS), Offender Information System (OIS), Interstate Compact Offender Tracking System (ICOTS), and related case management modules.
- J. <u>Supervisory Authority</u>: The local corrections official or officials designated in each COUNTY by that COUNTY's Board of County Commissioners or

county court to operate corrections supervision services, custodial facilities or both.

II. AUTHORITY AND DURATION

A. **Authority**

This Agreement is entered into pursuant to the provisions of ORS 423.520.

B. **Duration**

This Agreement will become effective on **July 1, 2015** and will remain in effect until **June 30, 2017** or until terminated according to Section X, Termination.

III. PLAN; PLAN MODIFICATIONS

- A. Community Corrections Plan: COUNTY will create a community corrections plan meeting the requirements of ORS 423.525 outlining the basic structure of supervision, services, and local sanctions to be applied to offenders convicted of felonies and on supervision in the county. The Plan consists of program descriptions and budget allocations and is included as part of this agreement. The Plan must be received and approved by DEPARTMENT before disbursements can be made by COUNTY.
- B. Plan Modifications: COUNTY and DEPARTMENT agree that the Plan must remain a flexible instrument capable of responding to unforeseen needs and requirements. COUNTY may modify the Plan according to ORS 423.525 and the administrative rules thereunder governing the support and development of County Corrections Programs. A copy of all Plan Modifications will be marked in sequence beginning with the designation "Plan Modification 1" and attached to the above-mentioned Plan. DEPARTMENT will notify COUNTY of any concerns about the modification or the need for an amendment within a 30 calendar day period after DEPARTMENT receives the Plan Modification.
- C. Notice of Modification: No Plan Modifications shall take effect until COUNTY gives written notice to DEPARTMENT, in a form approved by DEPARTMENT. DEPARTMENT shall provide to COUNTY an approved form for modifications as soon as practicable after execution of this Agreement.

IV. AMENDMENTS GENERALLY

The terms of this Agreement shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written Amendment signed by the parties.

V. DUTIES AND RESPONSIBILITIES OF COUNTY

- A. COUNTY shall assume administrative responsibility for correctional supervision and services within its jurisdiction, as outlined in the Plan.
- B. COUNTY shall designate a Community Corrections Manager.
- C. COUNTY will meet the goals for community corrections in Oregon described below:
 - 1. Reduce Criminal Behavior
 - a. Indicator: recidivism, as measured by felony convictions from initial admission to probation, tracking for three years from admission.
 - b. Indicator: recidivism, as measured by felony convictions from first release to parole/post-prison supervision, tracking for three years from release.
 - 2. Enforce Court, Board of Parole and Post-Prison Supervision, and Local Supervisory Authority Orders:
 - a. Indicator: the percentage of positive case closures for offenders on parole/post-prison supervision.
 - b. Indicator: the percentage of positive case closures for offenders on probation.
 - 3. Assist Offenders to Change:
 - a. Indicator: employment rates for offenders on supervision.
 - b. Indicator: substantial compliance with treatment requirements.
 - 4. Provide Reparation to Victims and Community
 - a. Indicator: the percentage of restitution and compensatory fines collected, owed to victims.
 - b. Indicator: the percentage of community service hours provided by offenders on supervision.
- D. Except as otherwise provided by the DEPARTMENT's rules or orders, COUNTY will adopt and implement a continuum of administrative sanctions used by DEPARTMENT and the Board of Parole and Post-Prison Supervision for violators of conditions of Probation, Parole and Post-Prison Supervision as authorized by ORS 144.106, 144.334, 144.343 and 137.540 and the rules thereunder. COUNTY will manage local control post-prison supervision in accordance with the rules and practices of the Board of Parole and Post-Prison supervision.

- E. COUNTY will follow the Oregon Administrative Rules (OAR's) applicable to community corrections, including but not limited to the following:
 - Computerized Information System Access and Security OAR 291-005-0005 through 291-005-0075.
 - 2. Case Transfer, OAR 291-019-0100 through OAR 291-019-0160.
 - 3. Searches, OAR 291-028-0100 through OAR 291-028-0115.
 - 4. Community Corrections Programs, OAR 291-031-0005 through OAR 291-031-0360.
 - 5. Pre-sentence Investigation, OAR 291-038-0005 through 291-038-0060.
 - 6. Structured, Intermediate Sanctions OAR 291-058-0010 through OAR 291-058-0070.
 - 7. Short-term Transitional Leave, OAR 291-063-005 through 291-063-0060.
 - 8. Records Management, OAR 291-070-0100 through OAR 291-070-0140.
 - 9. Community Case Management, OAR 291-078-0005 through OAR 291-078-0031.
 - 10. Admission, Sentence Computation and Release, OAR 291-100-0005 through OAR 291-100-0160.
 - 11. Interstate Compact, OAR 291-180-0106 through OAR 291-180-0275.
 - 12. Sex Offenders, Special Provisions, OAR 291-202-0010 through 291-202-0130.
 - 13. Active and Inactive Probation, OAR 291-206-005 through 291-206-0030.
 - 14. Earned Discharge, OAR 291-209-0010 through 291-209-0070.
 - 15. Dangerous Offenders, OAR Chapter 255, Divisions 36 and 37.
 - 16. Release to Post-Prison Supervision or Parole and Exit Interviews, OAR Chapter 255, Division 60.
 - 17. Conditions of Parole and Post-Prison Supervision, OAR Chapter 255, Division 70.
 - 18. Procedures for Response to Parole and Post-Prison Supervision Condition Violations for Offenders Under the Jurisdiction of the Board of Parole and Post-Prison Supervision or Local Supervisory Authority, OAR Chapter 255, Division 75.
 - Active and Inactive Parole and Post-Prison Supervision, OAR Chapter 255, Division 94.
 - 20. Archiving, OAR Chapter 166.
- F. COUNTY will follow all applicable Federal and State civil rights laws including, but not limited to:
 - 1. Federal Code, Title 5 USCA 7201 et seq. Anti-discrimination in Employment.

- 2. Oregon Statutes, Enforcement of Civil Rights: ORS 659A.009, 659A.006, and 659A.030.
- 3. Americans with Disabilities Act.
- G. COUNTY will prepare and furnish such data, descriptive information and reports as may be requested by DEPARTMENT as needed to comply with ORS 423.520, which states in part, "The department shall require recipients of the grants to cooperate [. . .] in the collection and sharing of data necessary to evaluate the effect of community corrections programs on future criminal conduct." COUNTY will enter data into the Corrections Information System in a complete, accurate, and timely manner. COUNTY agrees to, and does hereby grant DEPARTMENT the right to reproduce, use and disclose all or any part of such reports, data and technical information furnished under this Agreement.
- H. COUNTY will permit authorized representatives of DEPARTMENT to make such review of records of COUNTY as may be necessary to satisfy audit or program review purposes. A copy of any audit or monitoring report will be made available to COUNTY.
- I. COUNTY will follow DEPARTMENT prescribed allotment and expenditure reporting system and shall provide this information on each discrete program in the COUNTY Corrections Plan. This system will be used for controlling County Corrections Grant funds by DEPARTMENT and to provide suitable records for an audit. COUNTY will make available to the DEPARTMENT copies of its annual audit report required by ORS 297.425.
- J. If funding from DEPARTMENT is reduced or discontinued by legislative action, COUNTY will not be required to increase use of COUNTY revenue for continuing or maintaining corrections services as set out in this Agreement. If funding is reduced below the amount set out in ORS 423.483, the County may elect to terminate pursuant to Section X, below.
- K. COUNTY will participate in Offender Profile System (OPS), the Integrated Supervision Information System (ISIS), Offender Management System (OMS), Offender Information System (OIS), and the Interstate Compact Offender Tracking System (ICOTS). COUNTY will enter and keep current information on offenders under supervision in the Law Enforcement Data System (LEDS) Enter Probation Record (EPR) System.
- L. COUNTY will retain responsibility for cases transferred to and accepted by another state under the terms of the Interstate Compact for Adult Offender Supervision, an agreement among states to provide supervision services for Parole, Post-Prison, and Probation Offenders that relocate to other states per ORS 144.610 and OAR 291-180-0106 through 291-180-0275.

M. COUNTY will comply with ORS 182.515-182.525. Programs identified by the Community Corrections Commission and receiving any state grant funds shall be evidence based. Evidence based programs are delivered consistent with the findings in research about what works best to reduce recidivism.

VI. DEPARTMENT RESPONSIBILITIES

- A. DEPARTMENT will furnish COUNTY, in a timely manner, those procedures, directives, records, documents and forms required for COUNTY to meet its obligations.
- B. Subject to system capacity and data processing capabilities, DEPARTMENT will furnish data, descriptive information and reports, available to DEPARTMENT and requested by COUNTY that will assist COUNTY in complying with DEPARTMENT requirements. This data includes, but is not limited to details regarding outcomes noted in Subsection V(C). DEPARTMENT hereby grants to COUNTY the right to reproduce, use, and disclose all or part of such reports, data, and technical information furnished under this Agreement.
- C. DEPARTMENT agrees to provide COUNTY an opportunity to review and comment on all new or revised administrative rules that have fiscal or programmatic impact on COUNTY.
- D. If by legislative action, funding from DEPARTMENT is reduced to COUNTY, DEPARTMENT agrees to provide reasonable notice and transition opportunity to COUNTY of changes that may significantly alter approved appropriations and programs.
- E. If COUNTY ceases to participate in County Corrections programs as described in ORS Chapter 423, DEPARTMENT may recover title and possession to property previously transferred to COUNTY or purchased by COUNTY with County Corrections Grant funds.
- F. DEPARTMENT grants to COUNTY continual access to DEPARTMENT computer system at no charge to COUNTY. All costs (including but not limited to any equipment or software upgrades) to ensure this access however, is the responsibility of COUNTY. If DEPARTMENT's computer is used in any way other than for pass-through of COUNTY data to DEPARTMENT system, COUNTY will provide support for additional activities. DEPARTMENT will provide timely notification and technical assistance when changes are made that impact applicable restriction on the software, if any. If COUNTY uses DEPARTMENT's data circuits or network connections to access a third party Jail Management system, the

- terms of the attached Exhibit B apply. If DEPARTMENT determines that COUNTY has not complied with the terms of Exhibit B, DEPARTMENT may immediately suspend COUNTY access to DEPARTMENT's computer system.
- G. DEPARTMENT's Community Corrections Division will administer the provisions of the Interstate Compact for Adult Offender Supervision, an agreement among states to provide supervision services for Parole, Post-Prison, and Probation Offenders that relocate to other states per ORS 144.610 and OAR 291-180-0106 through 291-180-0275.
- H. DEPARTMENT will provide technical assistance to COUNTY in implementing and evaluating COUNTY's Plan.
- I. DEPARTMENT will provide technical assistance to COUNTY on changes in Oregon Statutes and Oregon Administrative Rules.

VII. FUNDS

- A. The Budget Summary, Exhibit A, lists the County Corrections Grant funds authorized under this Agreement for the implementation of the Plan during the term of this Agreement.
- B. The Plan and Intergovernmental agreement (IGA) must be received by the DEPARTMENT from the COUNTY. After receipt of both the Plan and IGA, DEPARTMENT will authorize payments to the COUNTY as scheduled in this Section VII.
- C. The first payment to COUNTY will occur as soon as possible after the DEPARTMENT's budget is legislatively approved and implemented and quarterly thereafter.
- D. The DEPARTMENT will disburse to COUNTY one eighth of the County Correction Grant Funds authorized under this Agreement within 15 days of each of the following dates; 7/1/15, 10/1/15, 1/1/16, 4/1/16, 7/1/16, 10/1/16, 1/1/17, and 4/1/17.
 - DEPARTMENT's obligation to disburse County Correction Grant Funds is subject to satisfaction, on the date of each disbursement, of each of the following conditions:
 - 1. COUNTY is in compliance with all terms and conditions of this Agreement;
 - 2. This Agreement has not been terminated; and

- 3. DEPARTMENT has received funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to make the disbursement.
- E. Both parties agree that all reallocations of funds between or within programs shall require a Plan Modification, except that COUNTY may reallocate up to ten percent of funds in any budget category in the approved Plan between or within programs without a Plan Modification. COUNTY shall notify DEPARTMENT in writing of such reallocation within 30 days after making the reallocation.
- F. Unexpended Funds: Fund balances remaining at the termination of this agreement may be retained by the COUNTY, upon approval by the DEPARTMENT, for the provision of on-going supervision, correctional services, and sanctions in accordance with the Plan.
- G. Supervision fees collected by COUNTY will be used to offset costs of supervising the probation, parole, post-prison supervision or other supervised release pursuant to ORS 423.570 and its administrative rules, as amended from time to time.
- H. Unauthorized Expenditures: Any County Corrections Grant Funds expended for unauthorized purposes will be deducted by DEPARTMENT from payment or refunded to DEPARTMENT upon request.
- I. For purposes of the delivery of field corrections services, DEPARTMENT recognizes COUNTY as an ongoing partner for all County Corrections appropriations provided by the State of Oregon Legislature according to ORS 423.475 to 423.565.
- J. Funding for Sexually Violent Dangerous Offenders: Funding for the intensive supervision of offenders designated as sexually violent dangerous offenders by the Court or Board of Parole and Post-Prison Supervision is limited to the amount appropriated for this specific program.
- K. In the event that the County retains funds to spend in the next biennium under Subsection VII(F), then Subsections VII (D)-(G) and (I)-(J) will survive termination or expiration of this Agreement.

VIII NONCOMPLIANCE

A. The Assistant Director of Community Corrections or the Assistant Director's designee shall annually review COUNTY's compliance with this Agreement under ORS 423.500 to 423.560. COUNTY must substantially comply with the provisions of the Plan received by DEPARMENT and this Agreement.

- B. If, upon review, DEPARTMENT determines that there are reasonable grounds to believe that COUNTY is not in substantial compliance with the intergovernmental agreement or Plan, DEPARTMENT shall contact COUNTY regarding the alleged noncompliance and offer technical assistance to reach compliance. If COUNTY does not resolve the alleged noncompliance, DEPARTMENT shall, after giving COUNTY not less than 30 calendar days' notice, conduct a hearing to ascertain whether there is substantial compliance or satisfactory progress being made toward compliance. After technical assistance, which may include peer review or other assistance, is provided and the hearing occurs, DEPARTMENT may suspend any portion of the funding made available to COUNTY under ORS 423.500 to 423.560 until County complies as required.
- C. In the event that a dispute arises, COUNTY may appeal to the Director of the Department of Corrections.

IX INDEMNIFICATION See Exhibit C

X TERMINATION

- A. It is understood and agreed by the parties hereto that this Agreement will remain in force only during its term and will not continue in force after its term. There will be no automatic extension, but this Agreement may be extended only by written consent of the parties hereto.
- B. It is understood and agreed by the parties hereto that if any part, term or provision of this agreement, including any part, term or provision of any appended material, is held by a court to be illegal or in conflict with any law of the State of Oregon or applicable administrative rule, that element of the contract including relevant appended materials will be void and without effect and will be treated by the parties as having been terminated as of the date of determination of the voidness.
- C. If COUNTY chooses to discontinue participation as described in ORS 423.483(2), COUNTY may terminate participation at the end of any month by delivery of a resolution of the Board of Commissioners to the DEPARTMENT's Director or the Director's designee not less than 180 calendar days before the termination date. Termination will occur only at the end of a month.
- D. If COUNTY terminates participation, the following will apply:
 - The responsibility for correctional services transferred to COUNTY and the remaining portion of financial aid will revert to DEPARTMENT.

- In no case does responsibility for supervision and provision of correctional services to misdemeanor offenders revert to DEPARTMENT.
- E. It is understood and agreed by the parties hereto that this Agreement will automatically terminate if the State of Oregon fails to provide any funding. If there is reduced state funding as described in ORS 423.483, County may terminate the Agreement as described herein.

XI COMPLIANCE WITH APPLICABLE LAW

Both Parties shall comply with all federal, state and local laws, regulations, executive orders, and ordinances to which each is subject and which is applicable to this Agreement. Without limiting the generality of the foregoing, the parties expressly agree to comply with: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to those laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. DEPARTMENT's performance under this Agreement is conditioned upon COUNTY's compliance with the provisions of ORS 279B.220, 279B.230, 279B.235 and 279B.270, as amended from time to time, which are made applicable to this Agreement and incorporated herein by this reference. All employers, including COUNTY, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. COUNTY shall ensure that each of its subcontractors complies with these requirements.

Nothing is this Agreement shall require County or Department to act in violation of state or federal law or the Constitution of the State of Oregon.

XII ACCESS TO RECORDS

For not less than six (6) years after Agreement expiration, DEPARTMENT, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers and records of COUNTY which are directly pertinent to this specific Agreement for the purpose of making audit, examination, excerpts, and transcripts. COUNTY shall retain all pertinent records until the later (i) the date that is not less than three years following the Agreement expiration date or (ii) the date on which all litigation regarding this Agreement is resolved. COUNTY agrees full access to DEPARTMENT will be provided in preparation for and during litigation. Copies of applicable records shall be made available upon request. DEPARTMENT shall reimburse COUNTY for the cost of copies DEPARTMENT requests.

XIII SURVIVAL

All rights and obligations shall cease upon termination or expiration of this Agreement, except for the rights and obligations set forth in Sections IV, IX, X, XI, XII, XIII, and XIV.

XIV **GOVERNING LAW; JURISDICTION; VENUE**

The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement. Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

ΧV **WAIVER**

The failure of either party to enforce any provision of this Agreement will not constitute a waiver by that party of that or any other provision.

XVI **EXECUTION AND COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which will be an original, all of which will constitute but one and the same instrument.

XVII **MERGER; INTEGRATION**

This instrument contains the entire agreement between the parties and no statement made by any party hereto, or agent thereof, not contained or attached with reference thereto in this written agreement will be valid or binding. This Agreement will supersede all previous communications, representations, wither verbal or written, between the parties hereto. This Agreement may not be enlarged, modified or altered except in writing, signed by the parties, and attached.

DEPT. OF CORRECTIONS	BOARD OF COMMISSIONERS			
Jeremiah Stromberg, Asst. Director	Chair, Scott C. Hege			
	September 2, 2015			
Date	Date APPROVED AS TO FORM:			
DOJ Legal Sufficiency Approval Keith Kutler per en	mail dated 3/9/15			

EXHIBIT A

BUDGET SUMMARY (to be added by DEPARTMENT after COUNTY submission of the County Corrections Plan)

EXHIBIT B

TO INTERGOVERNMENTAL AGREEMENT #5138

NETWORK ACCESS BY COUNTY

- 1. COUNTY Jail users will be permitted to use existing DEPARTMENT data circuits to access third party systems. Access is permitted for Jail Management system application users only. COUNTY Jail users will not be permitted to use DEPARTMENT circuits for video conferencing, Real Audio, Internet access, applications that require large amounts of bandwidth, or other Jail Management Software Online Service or System unless approved by DEPARTMENT. COUNTY Jail users will be permitted to use DEPARTMENT's data circuits for video image transmissions using a NIST standard (available from DEPARTMENT upon request).
 - A. All network traffic covered by this agreement will employ TCP/IP network protocols.
 - B. DEPARTMENT will continue its policy of only providing one router to each county. This means that if COUNTY's jail and Parole and Probation office are located in separate buildings, COUNTY will be responsible for providing a connection between the two buildings.
- 2. COUNTY understands and acknowledges that DEPARTMENT is subject to the public records provision of ORS 192.410 through 192.505 and other applicable laws and administrative rules which establish uniform guidelines and procedures for the release of information from DEPARTMENT's computer system.

EXHIBIT C INDEMNIFICATION WASCO COUNTY

Contribution

If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with the County (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the County in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the County on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the County on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

With respect to a Third Party Claim for which the County is jointly liable with the State (or would be if joined in the Third Party Claim), the County shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the County on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the County on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

Alternative Dispute Resolution

The parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

Indemnification by Subcontractors

County shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of County's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.

Subcontractor Insurance Requirements

GENERAL

County shall require its first tier contractor(s) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between County and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Agency. County shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, County shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. County shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a contractor to work under a Subcontract when the County is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the county directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

TYPES AND AMOUNTS

PROFESSIONAL LIABILITY

Professional Liability Insurance covering any damages caused by an error, omission or negligent act related to the services to be provided under the Subcontract, with limits not less than \$2,000,000, as determined by the Agency:

"TAIL" COVERAGE If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Subcontract, for a minimum of 24 months following the later of: (i) the contractor's completion and County's acceptance of all Services required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract.

Notwithstanding the foregoing 24-month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the contractor may request and Agency may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If Agency approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR CHANGE The contractor or its insurer must provide 30 days' written notice to County before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

CERTIFICATE(S) OF INSURANCE County shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

Wasco County

2015-2017 Community Corrections Budget Summary

Program Name	Grant in Aid Fund	Release Subsidy Fund	Other Funds and Fees	Total	
Administration	\$156,160.00		\$30,040.00	\$186,200.00	
Custodial / Sanction Jail Beds	\$780,258.00			\$780,258.00	
Sex Offender Services	\$32,200.00		\$6,800.00	\$39,000.00	
Supervision	\$1,186,790.00		\$22,304.00	\$1,209,094.00	
Transitional Services	\$142,599.00	\$7,210.00	\$102,900.00	\$252,709.00	
Domestic Violence Services \$11,200			\$15,160.00	\$26,360.00	
Substance Abuse Services \$63,644.00			\$8,000.00	\$71,644.00	
Other Program \$101,000.00			\$5,356.00	\$106,356.00	
				\$0.00	
				\$0.00	
Total	\$2,473,851.00	\$7,210.00	\$190,560.00	\$2,671,621.00	

Brief Summary

Wasco County M57 Supplemental Fund Program 2015-2017

Population served: Parole and probation clients that are in need of Level II intensive outpatient substance abuse treatment. At this time the program pays for seven intensive outpatient level II slots per week. We are looking at expanding this program with the new funding.

The Program is based on the Texas Christian University Treatment Model. The program is estimated to be three months in length and clients meet three times weekly for a period of 2-2 ½ hours each session. The program has three phases and is comprehensive in nature. The program provider provides weekly random drug testing as well.

The program sanctions may include jail or work crew or other lower level interventions. Rewards are built into the program when certain bench marks are met and include individual rewards cards for local business establishments and the provider supplies all incentives for the program. Community Corrections also partners with The City of The Dalles in supplying work crew sanctions for these offenders with lower level violations and this work crew is free of charge to our program as the city finds its benefit in the work that is accomplished by the clients.

The M57 Program is a partnership between Community Corrections and one of our local substance abuse treatment providers, Crossroads Counseling. This program is operated by Anne Webber, CADC II. This partnership has worked out exceedingly well and has been a great benefit for our clients in obtaining access and removing barriers to obtaining treatment.

The program partnership originally began with Crossroads Counseling and it continues to thrive and provide access to treatment that would otherwise be fraught with many barriers to access and timeliness of response. Crossroads has been an efficient and helpful partner to work with and we are looking forward to a continued relationship with Crossroads.

INTERGOVERNMENTAL AGREEMENT #5180 BETWEEN THE STATE OF OREGON AND WASCO COUNTY

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This Agreement is between the State of Oregon acting by and through its Department of Corrections, hereafter called DEPARTMENT, and Wasco County, hereafter called COUNTY.

Whereas, DEPARTMENT is an agency of the State of Oregon and COUNTY is a unit of local government of the State of Oregon and both parties desire to cooperate by agreement to provide correctional services in COUNTY within the requirements as authorized by ORS 423.475 to 423.565:

Whereas, the Legislative Assembly of Oregon enacted legislation establishing shared responsibility between county corrections programs and the DEPARTMENT on a continuing basis (ORS 423.475 to 423.565);

Whereas, ORS 144.106 provides "the supervisory authority shall use a continuum of administrative sanctions for violations of post-prison supervision";

Whereas, Oregon Laws 2008, chapter 14 (Measure 57) was passed by voters of the State of Oregon increasing sentences for certain drug trafficking and theft crimes, requiring addiction treatment for certain offenders at risk of reoffending, and authorizing DEPARTMENT to make grants to counties to provide supplemental funding;

Whereas, supplemental funds have been made available to counties for treatment of drugaddicted persons, in accordance to OAR Chapter 291, Division 31;

Whereas, supplemental funds are made available to counties based on a formula that matches the COUNTY's percentage share of community corrections grant-in-aid funds;

Whereas, the DEPARTMENT will administer distribution of grants to counties;

Now, therefore, THE PARTIES HERETO, in consideration of the mutual promises, terms and conditions hereinafter provided, agree to the following:

I DEFINITIONS

- A. <u>Amendment:</u> Any change to this Agreement that alters the terms and conditions of the Agreement, excluding the Duration of the Agreement. Plan Modifications are NOT Amendments.
- B. <u>Budget Summary</u>: A budget submitted by COUNTY and approved by DEPARTMENT which identifies personnel, materials, services and funding COUNTY will use to implement the Plan. COUNTY's Intervention Budget Summary is described in Exhibit A.
- C. <u>Community Corrections Manager</u>: Individual designated by COUNTY pursuant to ORS 423.525 as responsible for administration of the community corrections programs as set forth by the Plan.
- D. <u>Corrections Information System (CIS)</u>: Statewide Evaluation and Information System: The Corrections Information Systems (CIS) including the Offender Profile System (OPS), the Integrated Supervision Information (ISIS), Case Management for Institutions (CMI), Offender Management System (OMS), Offender Information System (OIS), Interstate Compact Offender Tracking System (ICOTS), and related case management modules.

- E. <u>County Corrections</u>: All COUNTY agencies and officials who carry out the responsibilities in ORS 423.478(2)(a)-(f).
- F. <u>County Corrections Intervention Grant</u>: Grant(s) made by DEPARTMENT to assist COUNTY in the implementation and operation of the Plan.
- G. <u>County Intervention Plan (Plan)</u>: A document developed by the COUNTY and approved by the DEPARTMENT which describes COUNTY's approach to providing effective interventions for drug addicted offenders under COUNTY supervision. The County Intervention Plan is described in Exhibit A, County Intervention Plan and Budget Summary.
- H. <u>Intervention</u>: A response to Participant compliance of conditions of the Plan.
- I. <u>Participant</u>: An offender, under supervision of the COUNTY and enrolled in the Plan.
- J. <u>Plan Modification</u>: A written change or alteration to the Plan promulgated by COUNTY modifying the Plan; or the Duration of the Agreement.
- K. <u>Sanctions or Structured Sanctions</u>: A response to offender violations of conditions of supervision that uses custody units.
- L. <u>Supervisory Authority</u>: The local corrections official or officials designated in each COUNTY by that COUNTY's Board of County Commissioners or county court to operate corrections supervision services, custodial facilities or both.
- M. <u>Texas Christian University (TCU) Assessment Tool:</u> The Texas Christian University Assessment tool, to be used on Participants in COUNTY program, mandated by the DEPARTMENT.

II AUTHORITY AND DURATION

A. **Authority**

This Agreement is entered into pursuant to the provisions of ORS 423.520.

B. **Duration**

This Agreement will become effective on **July 1, 2015** and will remain in effect until **June 30, 2017** or until terminated according to Section XI (*Termination*).

III PLAN: PLAN MODIFICATIONS

- A. The Plan must be received and approved by DEPARTMENT before disbursements of funds described in Section VIII can be made to COUNTY.
- B. Plan Modifications: COUNTY and DEPARTMENT agree that the Plan must remain a flexible instrument capable of responding to unforeseen needs and requirements. A copy of all Plan Modifications will be marked in sequence beginning with the designation "Plan Modification 1" and attached to the above-mentioned Plan. DEPARTMENT will notify COUNTY of any concerns about the modification or the

- need for an amendment within a 30 calendar day period after DEPARTMENT receives the Plan Modification.
- C. Notice of Modification: No Plan Modifications shall take effect until COUNTY gives written notice to DEPARTMENT, in a form approved by DEPARTMENT. DEPARTMENT shall provide to COUNTY an approved form for modifications as soon as practicable after execution of this Agreement.
- D. Plan Modifications shall become effective upon the date the Plan Modification is approved in writing by the DEPARTMENT.

IV AMENDMENTS GENERALLY

The terms of this Agreement shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written Amendment signed by the parties. An Amendment shall become effective only after all parties have signed and all approvals have been obtained.

V DUTIES AND RESPONSIBILITIES OF COUNTY

- A. COUNTY shall assume administrative responsibility to provide services as outlined in the Plan.
- B. COUNTY shall incorporate the principles described below into the Plan:
 - 1. Treatment programs shall be evidence-based. Evidence-based programs are delivered consistent with the findings in research about what works best to reduce recidivism.
 - 2. Assessment which is standardized, objective, and comprehensive shall be used to prioritize treatment, determine criminal risk factors, and to determine the proper level of care. Assessments of risk shall be based on actuarial risk assessment tools.
 - 3. Rules, requirements and expectations for Participants, including consequences for success and for failure are made formal and clear by an authority figure.
 - 4. An individual case plan shall be developed for each Participant. The case plan shall include criminal risk factors in addition to addiction that will be addressed in treatment.
 - Treatment program design shall address issues of motivation. Treatment options shall be available for Participants consistent with their assessed stage of change.
 - 6. Treatment shall be based on cognitive and behavioral interventions and social learning approaches. Treatment programs shall be of sufficient length and intensity to produce stable behavior changes based on replacing old patterns of thinking and behaving and learning and practicing new skills for avoiding drug use and criminal behavior.

- 7. The Plan shall utilize a system of graduated Sanctions and incentives which are swift and sure and which encourage recovery goals while holding Participants accountable for non-compliance behaviors.
- 8. Weekly random drug testing shall occur, however frequency may decrease as Participant progresses. There shall be a consequence for this or any other rule violation, but that consequence shall not automatically result in withdrawal from treatment. Sanctions shall be administered in a manner to assure longer stays in treatment which are associated with good outcomes.
- 9. Co-ed treatment shall be avoided if possible.
- 10. Programs shall include relapse prevention planning and comprehensive transition planning so that participants are more likely to adjust to the next level of care or change in living situation.
- 11. Addictions treatment programs must be licensed by the State of Oregon to provide addictions treatment.
- C. COUNTY shall incorporate the following data requirements:
 - 1. COUNTY will identify Participants through the indicating 'Y' under the M57 Tx data field, located in the Treatment Module.
 - 2. The start and stop date of the actual program participation, as well as program exit code, will be entered into the CIS Treatment Module
 - 3. Program Participants will be assessed for level of severity of addiction, using the Texas Christian University assessment tool (available at no cost), and enter corresponding data as determined by DEPARTMENT.
- D. COUNTY will prepare and furnish such data, descriptive information and reports as may be requested by DEPARTMENT as needed to comply with ORS 423.520, which states in part, "The department shall require recipients of the grants to cooperate in the collection and sharing of data necessary to evaluate the effect of community corrections programs on future criminal conduct." COUNTY will enter data into CIS in a complete, accurate, and timely manner. COUNTY acknowledges and agrees that DEPARTMENT has the right to reproduce, use and disclose all or any part of such reports, data and technical information furnished under this Agreement.
- E. COUNTY will permit authorized representatives of DEPARTMENT to make such review of records of COUNTY as may be necessary to satisfy audit and/or program review purposes. A copy of any audit or monitoring report will be made available to COUNTY.
- F. COUNTY will follow DEPARTMENT's prescribed allotment and expenditure reporting system in accordance with Exhibit A. This system will be used for controlling County Corrections Intervention Grant funds by DEPARTMENT and to provide suitable records for an audit.

G. If funding from DEPARTMENT is reduced or discontinued by legislative action, COUNTY will not be required to increase use of COUNTY revenue for continuing or maintaining corrections services as set out in this Agreement.

VI DEPARTMENT RESPONSIBILITIES

- A. Participate according to this Agreement.
- B. Provide funding as described in Section VIII of this Agreement.
- C. Furnish COUNTY, in a timely manner, those rules, administrative directives and procedures required for COUNTY to meet its obligations described herein.
- D. Subject to system capacity and data processing capabilities, DEPARTMENT will furnish data, descriptive information and reports, available to DEPARTMENT and requested by COUNTY that will assist COUNTY in complying with DEPARTMENT requirements. DEPARTMENT hereby grants to COUNTY the right to reproduce, use, and disclose all or part of such reports, data, and technical information furnished under this Agreement.
- E. If by legislative action, funding from DEPARTMENT is reduced to COUNTY, DEPARTMENT agrees to provide reasonable notice and transition opportunity to COUNTY of changes that may significantly alter approved appropriations and programs.
- F. DEPARTMENT will provide technical assistance to COUNTY in implementing and evaluating COUNTY's Plan.

VII PERFORMANCE GOALS

Interventions funded under this Agreement will be evaluated by the DEPARTMENT for treatment effectiveness. Goals for the evaluation are to determine if:

- A. Treatment programs are evidence-based, as evaluated by the Corrections Program Checklist.
- B. Recidivism is reduced: Participants will recidivate at lower rates than similar untreated offenders.
- C. Participants reduce drug use: Results of random urinalysis will be analyzed.
- D. Participants show evidence of improved community functioning: Improved community functioning will be measured by successful completion of the program and through the existing community corrections performance measures (successful completion of supervision, employment, payment of restitution and/or community service work).

VIII FUNDS

- A. Exhibit A identifies the County Corrections Intervention Grant funds authorized under this Agreement for the implementation of the Plan during the term of this Agreement.
- B. Payment to COUNTY will be made within 15 days after execution of this Agreement.
- C. Both parties agree that all reallocations of funds within programs shall require a Plan Modification.
- D. Unexpended Funds: Fund balances remaining after the budget year or expiration of the Agreement may be retained by the COUNTY, upon approval by DEPARTMENT, for the provision of on-going supervision, correctional services, and sanctions in accordance with the Plan.
- E. Unauthorized Expenditures: Any grant funds disbursed to COUNTY that are expended for unauthorized purposes, or any Unexpended Funds not retained by COUNTY under Section VIII.E, will be deducted by DEPARTMENT from payment or refunded to DEPARTMENT promptly upon DEPARTMENT's written request and no later than 15 days after DEPARTMENT's written request.
- F. **Maximum Grant Amount**. Grant funds are based upon COUNTY's Application for Supplemental Funds. Unless amended, the maximum, not-to-exceed County Corrections Intervention Grant payable to COUNTY under this Agreement is \$103,223. The maximum grant amount may be increased only by written amendment of this Agreement which is signed by all parties and with all required State approvals.
- G. Disbursement of Grant Funds under this agreement is contingent on DEPARTMENT receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow DEPARTMENT, in the exercise of its reasonable administrative discretion, to make the disbursement.

IX NONCOMPLIANCE

A. The Assistant Director of Community Corrections or the Assistant Director's designee of the Community Corrections Division shall review COUNTY's compliance with this Agreement. COUNTY must substantially comply with the provisions of the Plan received by DEPARMENT and this Agreement.

If, upon review, DEPARTMENT determines that there are reasonable grounds to believe that COUNTY is not in substantial compliance with the Agreement or Plan, including but not limited to standards of evidence-based treatment programs as required in Section V.B.1, DEPARTMENT and COUNTY shall proceed in accordance with OAR Chapter 291-031, to reach compliance or, if compliance is not obtained, to suspend funding.

X INDEMNIFICATION. See Exhibit B.

XI TERMINATION

- A. Parties Right to Terminate at its Discretion. At its sole discretion, any party to this Agreement may terminate this Agreement for its convenience upon 30 days' prior written notice.
- B. Parties may terminate this Agreement immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that DEPARTMENT or COUNTY cannot lawfully perform its obligations under this Agreement.
- C. It is understood and agreed by the parties hereto that this Agreement will remain in force only during its term and will not continue in force after its term. There will be no automatic extension, but this Agreement may be extended only by written consent of the parties hereto.
- D. It is understood and agreed by the parties hereto that if any part, term or provision of this agreement, including any part, term or provision of any appended material, is held by a court to be illegal or in conflict with any law of the State of Oregon or applicable administrative rule, that element of the contract including relevant appended materials will be void and without effect and will be treated by the parties as having been terminated as of the date of determination of the voidness.
- E. It is understood and agreed by the parties hereto that this Agreement will automatically terminate if the State of Oregon provides no funding. If there is reduced state funding, COUNTY may terminate the Agreement as described herein.

XII COMPLIANCE WITH APPLICABLE LAW

Both Parties shall comply with all federal, state and local laws, regulations, executive orders, and ordinances to which each is subject and which is applicable to this Agreement. Without limiting the generality of the foregoing, the parties expressly agree to comply with: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to those laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. All employers, including COUNTY, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. COUNTY shall ensure that each of its subcontractors complies with these requirements.

Nothing is this Agreement shall require COUNTY or DEPARTMENT to act in violation of state or federal law or the Constitution of the State of Oregon.

XIII ACCESS TO RECORDS

For not less than six (6) years after Agreement expiration, DEPARTMENT, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers and records of COUNTY which are directly pertinent to this specific Agreement for the purpose of making audit, examination, excerpts, and transcripts. COUNTY shall retain all pertinent records

until the later of (i) the date that is not less than three years following the Agreement expiration date or (ii) the date on which all litigation regarding this Agreement is resolved. COUNTY agrees full access to DEPARTMENT will be provided in preparation for and during litigation. Copies of applicable records shall be made available upon request. DEPARTMENT shall reimburse COUNTY for the cost of copies DEPARTMENT requests.

XIV SURVIVAL

All rights and obligations shall cease upon termination or expiration of this Agreement, except for the rights and obligations set forth in Sections IV, X, XI, XII, XIII, XIV, and XV.

XV GOVERNING LAW; JURISDICTION; VENUE

The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement. Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Wasco County. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

XVI WAIVER

The failure of either party to enforce any provision of this Agreement will not constitute a waiver by that party of that or any other provision.

XVII EXECUTION AND COUNTERPARTS

This Agreement may be executed in several counterparts, each of which will be an original, all of which will constitute but one and the same instrument.

XVIII NOTICE

Except as otherwise expressly provided in this Agreement, any notices between the Parties to be given hereunder shall be given in writing by personal delivery, facsimile, electronic mail, or mailing the same, postage prepaid to COUNTY or ODOC at the address or number set forth below, or to such other addresses or numbers as any Party may indicate pursuant to this section. Any notice so addressed and mailed shall be effective five (5) days after mailing. Any notice delivered by facsimile shall be effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the recipient, or on the next business day, if transmission was outside normal business hours of the recipient. Any notice delivered by electronic mail shall be effective on the day of notification of delivery receipt, if delivery was during normal business hours of the recipient, or on the next business day, if delivery was outside normal business hours of the recipient. Any notice given by personal delivery shall be effective when actually delivered to the Authorized Representatives listed below:

To DEPARTMENT: Jeremiah Stromberg, Assistant Director

Community Corrections Division Department of Corrections

2575 Center St. NE Salem, OR 97301

Telephone: 503-945-8876

Fax: 503-373-7810

E-Mail: Jeremiah.P.Stromberg@doc.state.or.us

To COUNTY: Robert Martin, Director

Wasco Co Community Corrections

421 E 7th Street Annex B The Dalles OR 97058 Phone: (541) 506-2570 Fax: (541) 506-2571

Email: Robert.v.martin@cc.doc.state.or.us

The Parties may change the persons named in this section by notice to the other Parties as provided herein. No amendment to this Agreement is required to make such change.

XIX MERGER; INTEGRATION

This instrument contains the entire agreement between the parties and no statement made by any party hereto, or agent thereof, not contained or attached with reference thereto in this written agreement will be valid or binding. This Agreement will supersede all previous communications, representations, wither verbal or written, between the parties hereto. This Agreement may not be enlarged, modified or altered except in writing, signed by the parties, and attached.

STATE OF OREGON DEPT. OF CORRECTIONS	WASCO COUNTY APPROVALS			
Jeremiah Stromberg, Assistant Director	Signature, Scott C. Hege			
Date	Chair, Board of Commissioners 9.16.202 Title Date	15		
Reviewed by the Oregon Attorney General's Office:	APPROVED AS TO FORM:			
	Kristen Campbell			
/s/ Keith Kutler per email dated 5/19/15 Assistant Attorney General	Wasco County Counsel			

EXHIBIT A COUNTY INTERVENTION PLAN and BUDGET SUMMARY WASCO COUNTY (To be attached upon signature and return of Agreement by County)

EXHIBIT B INDEMNIFICATION WASCO COUNTY

Contribution

If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with the County (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the County in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the County on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the County on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

With respect to a Third Party Claim for which the County is jointly liable with the State (or would be if joined in the Third Party Claim), the County shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the County on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the County on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

Alternative Dispute Resolution

The parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

Indemnification by Subcontractors

County shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of County's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.

Subcontractor Insurance Requirements

GENERAL.

County shall require its first tier contractor(s) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between County and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Agency. County shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, County shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. County shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a contractor to work under a Subcontract when the County is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the county directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

TYPES AND AMOUNTS.

PROFESSIONAL LIABILITY

Professional Liability Insurance covering any damages caused by an error, omission or negligent act related to the services to be provided under the Subcontract, with limits not less than \$2,000,000, as determined by the Agency:

"TAIL" COVERAGE. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Subcontract, for a minimum of 24 months following the later of: (i) the contractor's completion and County's acceptance of all Services

required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing 24-month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the contractor may request and Agency may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If Agency approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR CHANGE. The contractor or its insurer must provide 30 days' written notice to County before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

CERTIFICATE(S) OF INSURANCE. County shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

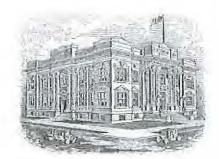
2015-2017 M57 Supplemental Funds Intervention Program Budget Summary

Program Expenses (please be detailed)	13-15 M57 Supplemental Funds Carryover	15-17 M57 Supplemental Funds	Other State Funds	County/Local Funds	Total
A. Supervision Related Personnel Costs					
Salaries and wages (include position FTE and type)					
Payroll taxes and benefits					
B. Materials and Services					
C. Treatment Provider and/or Contracted Professional Services	\$51,611.50	\$51,611.50	none	none	\$103,223
D. Sanction Costs (by type)					
E. Capital Outlay and Start- Up Costs					
Total	\$51,611.50	\$51,611.50			\$103,223

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Agenda Item Walnut Street Property

- <u>Staff Memo</u>
- Emmert International Option Agreement



WASCO COUNTY Facilities

Fred Davis

Facilities Operations Manager 511 Washington St. The Dalles, OR 97058-1599 phone: 541-506-2553

fax: 541-506-2551 cel: 541-993-3280

e-mail-fredd@co.wasco.or.us

July 30, 2015

To: Wasco County Board of Commissioners

Re: Rental property at 1915 West 10th

The "Walnut Street" rental house, constructed in 1925, was purchased by the County in 1999 for \$95,000 and rented out the same year. At that time, the plan was to secure the property in order to augment the County's real holdings on West 10th Street, renting it out to recover the purchase price.

By the numbers (as available):

- The square footage of the three bedroom house is listed as 1,225 square feet.
- •To date the estimated total rental income is \$108,080.
- The average rental income to the County for this house is \$550 per month.
- Property taxes paid 1999-2014: \$13,252.
- Maintenance expenditures to date total \$7,789 with no significant outgo in the last three fiscal years.
- •Net for the house (rental income less purchase price, property taxes and maintenance costs) is -\$7,961
- Statutorily required repairs would cost an estimated \$19,250. Additional recommended repairs would add \$5,185 for a total of \$24,435 for all repairs.
- The most current rent, as shown on the Profit & Loss document provided by Leeland Property Management, was \$750/mo. With the required repairs and grounds work, \$950/mo would be a fair starting point. With the additional recommended upgrades the current local market could support \$1,200/mo. (without appliances).

Other options considered:

Fred X d.

- The Mid Columbia Housing Authority/Columbia Cascade Housing Corporation stated that they currently offer no options other than donating the property to them.
- Another option would be to market the house as a unit to be moved to another site by the buyer and then clear the lot.
- Leaving the building empty presents the challenge of security risks including vandalism, break-ins, fire and degradation due to lack of use.

Thank you,



Division of Emmert Industrial Corp.

11811 SE Hwy 212 ~ Clackamas, Oregon 97015 Phone (503) 655-7191 Fax (503) 655-3933

OPTION AGREEMENT

Mover: EMMERT INDUSTRIAL CORP.	
Owner:	
Mailing Address:	
Phone:	
Cell:	
Building Description:	
Building Location:	
Option Price: \$ 1.00	
AGREEMENT made thisday of nerein called "Mover", and	, by and between <u>Emmert Industrial Corp.</u> , herein called "Owner".
N CONSIDERATION of sale price of home <u>(\$ 1</u> promises of the parties listed below, the parties	.00), other valuable consideration, and the mutual enter into this Option Agreement.
Owner grants to Mover an option to purchase the described option price. Mover shall have the so responsible for advertising the sale of the struct	le right to move this structure. Mover shall be
Owner shall give thirty, (30) days' notice to Move Agreement is for a minimum period of ninety, (1 option period, the Option Agreement is self- renewriting, or Emmert Industrial exercises their opti	20) days. After the expiration of the minimum ewing until the Owner cancels the agreement, in
Said home is sold free and clear of all liens and ownership and possession of the building, includiscontinue and disconnect all utilities, capping sowner is responsible for any needed asbestos seesponsible for the removal of the house.	sewer, removal of foundation and flat work.
EMMERT INDUSTRIAL CORP.	
By: Emmert Industrial Corp.	Owner:
Date:	Date:

Agenda Item County Policies

- Wasco County Compensation Policy
- Wasco County Performance Management Policy
- Wasco County Performance Award Policy

WASCO COUNTY Compensation Policy

I. Introduction

This compensation program has been developed to provide uniform and objective procedures for the compensation administration within Wasco County.

It is the policy of the County to pay wages and salaries which are based upon the nature of the job performed. In setting pay levels to attract and retain qualified personnel, the County will monitor the compensation levels and practices of other organizations, both public and private, that employ similarly skilled persons in the geographic area. Pay increases, while considering length of service, are given primarily to reward competent and contributing performance.

This compensation policy shall define the terms commonly used, explain the authority and responsibility for the program, and its implementation, and detail the procedures relating to pay administration and payroll. The policy will be reviewed periodically and revised, if necessary, to better serve the needs of the County and its employees. The pay ranges will be evaluated and adjustments made periodically by management.

II Compensation Philosophy

Wasco County has created a Compensation Philosophy that guides the decisions and policies regarding compensation. The principles of this Philosophy are:

- Ensure External Competitiveness of employee pay
- Ensure Internal Equity regarding the valuing of positions
- Ensure the Fairness of individual employee pay based on performance
- Ensure the consistency of the application of policies and procedures
- Ensure that County fiscal resources are considered in making pay decisions

II. General Provisions

A. Coverage

All employees are subject to this policy, except those covered by union agreements, temporary employees, and the Administrative Officer of the County whose pay is set by the Board of Commissioners.

B. Authorization

All pay offers, increases, demotions, promotions, transfers, and all other changes affecting payroll status must be authorized and signed by two levels of

management and initialed by the Finance Director. The approval process must be completed prior to any pay change being communicated to the employee. The Job Evaluation Committee will offer their recommendations to Finance Director and the Administrative Officer regarding the internal value of the position as part of this review process. Final assignment of pay grade for a new or existing job is made by the Finance Director, in conjunction with the Administrative Officer.

The Philosophy Statement of this policy and its overall approval is considered the province of the Board, but the authority to execute the actions detailed in this Policy rests with the Administrative Officer in consultation with Finance Director. This authority includes finalizing Job Evaluation ranking, determining the appropriate pay range, setting pay rates, approving promotions, determining when market research is needed, and interpreting the language of this policy. In the event that the Administrative Officer does not approve the request, Department Heads may take the request directly to the Board of Commissioners.

C. Dissemination of Pay Program Information

Supervisors are required to explain to employees their individual pay status and the system for reviews and promotions. Compensation is considered to be personal. Employees are requested to treat pay information (starting pay, raises, promotional increases, etc.) with care and sensitivity. This is not meant to infringe on employees Section VII rights regarding discussing pay; only that employees are requested to recognize that not everyone feels the same comfort regarding wishing to talk about pay levels.

III. Policy and Procedures

A. Range Assignment

Each position in the County is placed in a pay grade that establishes the value of the position in relation to other positions in the County.

Each pay range is identified by a minimum, a market reference point, and a Performance Award. An employee's position within the range shall, in most circumstances, be related to demonstrated performance. Employees shall normally receive a pay level that is within the range limits assigned to their position.

Periodically the County will review the market pay levels, and if appropriate and if fiscal resources permit, the pay ranges may be adjusted upward as a result of the survey process.

Jobs are placed in pay ranges on the basis of two specific assessments. The first is the Job Evaluation factors that are used to rate positions for internal equity. The second consideration is the pay of comparable position within the County market. The Job Description and/or Analysis Questionnaire will be used to make these assessments.

B. Re-evaluation Requests

In the event that any employee or Supervisor feels that a position has been improperly placed within the hierarchy or that a position has changed sufficiently to warrant re-evaluation, a request must be submitted in writing. The request is to be sent to Human Resources by the Supervisor.

To request evaluation of a new job, a Job Analysis Questionnaire must be completed. To request re-evaluation of an existing job, the Job Description must be edited to reflect the job changes that are prompting the re- classification request. Any re-evaluation request of a current position must be accompanied by a detailed written explanation indicating the concerns about the current assignment or information about why another grade is thought to be more appropriate.

Requests will be reviewed periodically for the purpose of addressing any new positions and handling any re-evaluation requests. No position will be considered for re-evaluation more than once a year, and any request may be turned down if there is no substantial change in the position.

If the review process determines that the position should be placed in a higher pay range, then the employee will receive an increase equal to the difference in midpoints between the former and new range unless that would place the employee above the Performance Award of the new range. If the process results in the position placed in a lower pay range, no decrease in pay will occur unless the employee is actually above the Performance Award of the new range.

Any employee with a concern about the placement of his/her position <u>must</u> speak to his/her Supervisor about the concern before contacting Human Resources.

C. Pav Ranges

Range Minimum - At least the minimum of the appropriate pay range shall be paid to all qualified employees. In cases where the qualifications of a newly hired or newly promoted employee are less than those describe in the Job Description, such employee may be paid below the minimum of the applicable range while acquiring the necessary minimum qualifications for the position. Such learning period normally will be limited to six months (unless additional time is required for special licensure, training, etc.) after which the employee shall be paid at or above the minimum of the range, if retained in the position.

Market Reference Point - The Market Reference Point of the pay range generally identifies what the market pays for a fully experienced proficient employee. Pay increases above this point normally require performance that consistently meets or exceeds standards. The performance review process will play a significant role in determining whether any increase above the Market Reference Point will be given.

Performance Award - Employees become eligible for Performance Award

Return to Agenda

Wasco County Compensation Policy

Efforts following their performance evaluation after the Step 7 increase in Base Pay. Pursuing a Performance Award Effort is voluntary. Criteria for Performance Award Efforts will be based on mutually developed goals and objectives between the employee and supervisor. All objectives and goals will be evaluated by the department head and vetted through the Performance Award Committee. A Performance Award is a one-time monetary award. (For more information see the Wasco County Employee Performance Award Policy.)

Performance Awards will be based on the base salary of the employee at the time Performance Awards are distributed.

D. Increases

There are two types of increases that may be given.

1. A step increase may be given as a result of a performance review. If the review rating indicates that employee performance meets or exceeds job standards, and the learning expectations have been met, an increase in base pay may be authorized. The usual schedule for increase consideration occurs annually.

The County has designed its pay ranges so there are steps between the Minimum and the Market Reference Point. The purpose of these steps is to determine pay increases that will be given to employees if they demonstrate the necessary learning and ability to apply the knowledge gained during the initial years of their employment.

Once the employee reaches the Market Reference Point and is being paid in line with other fully proficient employees doing comparable work, then increases beyond the Market Reference Point are largely dependent on the demonstrated job performance of the employee. When the Market Reference Point is reached, a performance Plan outlining the expectations and the additional learning necessary to access performance award compensation will be jointly developed by the Supervisor and the employee. Achievement of the Performance Plan elements will determine if compensation for the Performance Award Effort is approved. (See the Wasco County Employee Performance Award Policy for additional details.)

2. The second type of pay adjustments may occur as a result of market research. An employee may receive a pay adjustment as a result of any change to the pay structure. These adjustments may be made at the same time as the employee's performance review.

If an employee is being paid at the Performance Award level and the market adjustment moves the base pay range above that level, the employee's base pay may increase at the next review period.

If an employee is being paid in excess of the Performance Award at the time the range for the position is established or due to a change in job

classification, that pay will be maintained, but no further pay increases will be given until the Performance Award is higher than the employee's pay, and then only if performance warrants.

All increases are subject to County resources.

E. Pay Decreases

In a demotion or voluntary move where a job changes to a position that is graded lower than the previously held position, a pay decrease may occur. Consideration will be given to the reason for the change, the employee's work history and the difference between the current pay and the range that the new position is assigned. The new pay grade assignment shall be determined by the Human Resources, in conjunction with Administrative Officer based on the new position description.

F. New Hires - Starting Salaries

A starting pay for a new hire may exceed the minimum of the pay range if the prior experience of the employee is sufficient to justify it. Typically new hires would be placed at one of the first two steps of the pay range. Any placement above Step Two at time of hire requires Administrative Officer approval. Comparisons will be made to the pay of current employees in the same grade with similar backgrounds.

G. Promotions

- 1. Definition A promotion is the act of moving an employee from a job in a lower pay grade to a different job in a higher pay grade.
- 2. Promotional Increase A promoted employee is eligible for a pay adjustment which places him/her at least at the new minimum, or if the pay already exceeds that, an increase of not less than 5% will be given assuming that it will not place the employee above the Performance Award.

H. Transfers

A transfer is the reassignment of an employee to a different job in the same pay grade. A transfer may occur within a department or between different departments. Transfers do not usually generate any pay change.

IV. Federal Wage and Hour Exemptions

Generally speaking, the Federal Wage and Hour laws require recordkeeping of hours worked by certain employees and compensation for hours worked in excess of 40 per week. Given that many of the employees at Wasco County work a 37.5 work week, hours worked between 37.5 and 40 will be paid at the regular rate of pay.

The requirements of exempt work (positions for which there are no overtime payment) state that substantial independent judgment, discretion, authority and decision making must be present. The status of each position will be determined by the Human Resources in conjunction with management.

V. Pa / Practices

A. Overtime

The work week is Sunday through Saturday and consists of either 37.5 or 40 hours for full-time employees. Overtime or any comp time accrual is calculated as one and one-half (1½) times the regular rate of pay for any hours in excess of forty (40) hours actually worked by non-exempt employees during a work week. Sick leave, vacation time, or any holiday hours will not be considered in computing the forty (40) hours after which overtime is paid.

B. Advances

Each employee will be paid on the scheduled pay day determined by the County. The County does not permit payroll advances.

C. Rest Periods and Lunch Breaks

Full-time employees are allowed up to one hour for lunch with a 15 minute rest break in the morning and again in the afternoon unless changed by a department head. Lunch breaks must be no shorter than 30 minutes. Part-time employees will be given a half-hour lunch period if working a 5 hour shift or more. Rest periods are computed as time worked and may not be charged to overtime. Time taken for lunch breaks is not a part of the paid work day. Scheduling of rest periods and lunch breaks will be done to ensure adequate staffing.

D. Approved Time Off

All time off must be approved by the designated supervisor. In cases where the immediate supervisor does not have administrative authority to approve time off; approval must be obtained from the next authorized supervisor. To ensure that proper arrangements are made to cover positions, all approval must be secured prior to taking time off.

APPROVED this 16th day of September, 2015.

	WASCO COUNTY
	BOARD OF COMMISSIONERS
	Scott C. Hege
	Commission Chair
	Rod L. Runyon
APPROVED AS TO FORM:	County Commissioner
Kristen Campbell	Steven D. Kramer
Wasco County Counsel	County Commissioner

WASCO COUNTY Performance Management Policy

I. Introduction

This policy's purpose is to describe the methods, timing, and principles of performance management at Wasco County. Further, each individual who supervises employees and is responsible for their performance shall be held accountable for carrying out these responsibilities in accordance with this policy. This policy also addresses the connection between Performance and Compensation.

II. Philosophy

The philosophy on which the performance management process is built recognizes the following as the most important features of the program:

- Performance management and planning is a two-way process, involving both employees and managers.
- Employee performance is to be assessed on objective, job-related criteria, developed and understood in advance by both the manager and subordinate.
- Job performance evaluation needs to be based on observable job behaviors rather than personality or attitudinal factors.
- Setting objectives for future performance and growth is as important as evaluating past performance.
- Performance management is an ongoing process of coaching, praising, assisting, and correction as needed.
- Employees with positive performance, as reflected in an evaluation, should be recommended for appropriate increases within the Compensation Policy.
- Employees within the top step of Compensation Matrix who perform to the objectives agreed upon during the evaluation process should be recommended to receive award points based on the Compensation Matrix and the Performance Award Policy.

III. Objectives

The objectives of the Performance Management system are:

- To let the employee know how s/he is doing on the job.
- To encourage communication of both the employee's and the Supervisor's expectations and goals.
- To build stronger performance in both employees and supervisors.

- To provide a consistent, objective, and fair means of making pay adjustments or determining Performance Awards.
- To help determine promotions, transfers, and other personnel actions.
- To be a tool for counseling and career planning.
- To build a permanent record of performance.

IV. Ongoing Feedback

Supervisors are expected to provide <u>regular</u> feedback and coaching to all direct reports. Any ongoing feedback and coaching should be documented and shared with the employee. This documentation shall also be used for the annual evaluation, future goals and objectives. Employees are entitled to know how they are doing and to have a supervisor who is invested in their employment success. Therefore it is expected that Supervisors and Managers will have regular contact with employees regarding their accomplishments and where improvement is needed. These interactions should be informally documented so that the annual evaluation will reflect the ongoing conversations that occurred.

V. Appraisal Procedure

At least one month in advance of the formal evaluation due date, the Human Services Manager will cause the notification to department heads that evaluations for identified employees are due. This should allow adequate time for compiling performance information, completing the evaluation form, and setting an appointment with an employee. Evaluation tools will include generally consistent categories and may be tailored to include additional performance measures specific to each job expectation and department. – See Appendix A

The evaluation process occurs with the supervisor and employee jointly. As part of the process the supervisor and employee will establish objectives for the following evaluation period. The objectives are documented and mutually understood to as part of the next evaluation period. Employee comments are added in writing during the performance planning and appraisal discussion. Employee and manager both sign the Performance Planning and Evaluation form (the employee's signature does not necessarily mean agreement with the ratings). The completed form along with the recommendations about any step increase or Performance Award is sent with the required paperwork to the next level of management, who signs it and forwards it to payroll and the personnel files. Both the manager and employee are encouraged to retain a copy of the completed Performance Evaluation.

VI. Schedule

Wasco County will strive to complete performance evaluations at the following points.

- At end of probationary period.
 - This evaluation will culminate the ongoing feedback provided to the employee throughout probationary period.
- 12 months after hire and then annually at the beginning of each calendar year, to be completed by January 3^{1st}. The intent of this policy is that no more than one performance review will be conducted within a fourteen month period of time.

This schedule can be modified at the time of promotion or position reclassification. Increases may occur at the time of each evaluation up to the employee reaching the Award Point, but they are not guaranteed. No performance-related increase can happen without a completed appraisal. Once an employee has reached the Award Point of the pay range, no more base pay increases will be given until the range maximum has moved up, but the employee may receive a Performance Award if the criteria for such an award have been met.

VII. Completing the Evaluation Process

Each evaluation should be personalized for each employee. Department supervisors and managers will review the employee's job description along with department policies, and county policies. The evaluation tool will assist in documenting the employee's performance in relation to the related expectations. Each manager should feel free to add statements to clarify any aspects that deserve special attention. Performance notations for special attention should also include written documentation.

VIII. Performance Award Efforts

The pay ranges for Wasco County have been developed in anticipation that employees will move through the pay range steps based on performing satisfactorily and learning the identified skills and knowledge expected for each new step. The step increases cease at a level designed to ensure that competent, proficient employees are paid slightly above the market average for the work being performed. Once this Performance Award has been reached, no additional base pay increases will occur until the market research suggests that the pay structure needs to be adjusted to maintain the desired market position.

Employees reaching the Performance Award can become eligible for a Performance Award Effort by meeting certain requirements. These requirements will be defined on an annual basis so that employees eligible for such payments are well aware of the criteria that must be met. Identifying the expectations or criteria that must be met is to be done at the time of the employee reaches the last step increase of the pay range so that both the supervisor and the employees are similarly informed as to the expectations to be met to reach award status.

For additional information about how Performance Awards and step increases are administered, please refer to the County's Compensation Policy.

APPROVED this 16th day of September, 2015.

	WASCO COUNTY BOARD OF COMMISSIONERS
	Scott C. Hege Commission Chair
APPROVED AS TO FORM:	Rod L. Runyon County Commissioner
Kristen Campbell Wasco County Counsel	Steven D. Kramer County Commissioner

Wasco County Employee Performance Award Policy

Introduction:

Wasco County employees who have achieved Step 7 of their pay grade have achieved a market reference point that identifies what the market pays for a full experienced, proficient employee. At Step 7, the employee is at the highest base salary step for that position. Additional compensation beyond this level is accessed with Performance Awards. Performance Awards can be accessed annually with a Performance Award Effort agreed upon between the employee and supervisor during the employee's annual performance evaluation and approved by the Performance Award Committee (PAC). A Performance Award is a one-time monetary award that has no impact on the employee's base salary.

Performance Awards may be granted to employees who meet the following criteria:

- 1. The employee has attained Step 7 of the salary matrix identified for their position; AND
- 2. The employee has met the needs and expectations as defined in their position description; AND
- 3. The employee has completed the agreed upon task, project, goal or service level (an effort) identified in the previous annual performance evaluation <u>and</u> approved Performance Award Effort Proposal.

Three types of Performance Award Efforts are possible:

- An effort that benefits the professional development of the individual (the employee);
- An effort that benefits the department;
- An effort that benefits Wasco County.

Performance Award duration: Performance Awards are a one-time lump-sum awarded to the employee annually, following completion of the Performance Award Effort. Awards will not impact base pay (remain at Step 7).

Performance Award sequencing and combination limits: An employee may only receive one Performance Award in year one following Step 7; two Performance Awards in year two; and up to three Performance Awards in year three. If multiple awards are sought in one year, they must be from more than one category of award types (see above). No more than three awards may be pursued in any one given performance period.



Performance award amount: Each award is valued at 2.5% of employee's Market Rate Step 7 salary. If multiple awards are agreed upon, the employee may receive more than 2.5% (up to 7.5%).

Wasco County Employee Performance Award Procedure

- 1. As part of the employee's annual performance review, the department head (or designee) and employee will discuss potential efforts (see definitions below) that, if successfully completed, will result in an annual performance award of monetary benefit (see rates above). The department head may have a list of efforts identified, or the employee may propose an effort for consideration.
- 2. The department head (or designee) and employee will (a) discuss the merits of the effort, (b) determine the necessary criteria and objectives that must be met prior to receiving the award, and (c) complete the proposal worksheet (attached) to summarize the effort and confirm it is significant enough to warrant a performance award; a score of 5 points is the minimum points necessary to proceed to the Performance Award Committee (PAC) for confirmation.
- 3. The department head will present the Performance Award Effort proposal worksheet (see attached) to the PAC.
- 4. The PAC will consider the merits of the proposed effort for (a) equity and fairness to all Wasco County employees, (b) benefits to the individual, department, or Wasco County, and (c) the sequencing or stacking of multiple Performance Awards proposed by single individuals. The PAC will either confirm department head's request or return it to the department head for further development. The PAC will indicate their determination on the worksheet for the employee's personnel file.
- 5. The department head (or designee) and employee shall meet regularly to ensure adequate progress is being made on the defined objectives.
- 6. Upon completion of the effort, the department head and employee shall meet to confirm the effort is finished in its entirety. The performance award will not be granted if the effort is not completed within the performance evaluation period.
- 7. The department head will work with Human Resources to implement the performance award at the time of the following annual performance evaluation.
- 8. New performance award efforts can be identified at each annual performance evaluation.

For the purposes of the Wasco County Performance Award Policy and Procedures, the following definitions shall apply:

<u>Effort:</u> An agreed upon and approved project, task, training, service level or other identified contribution that will directly benefit (a) the professional development of the individual, or (b) the functions of the department, or (c) the overall needs of Wasco County. An effort can be one task or multiple tasks, combined to increase benefits to the individual, department, or County and warrant an award.

<u>Difficulty:</u> Degree of difficulty will be based on the skill set and experience as it relates to the position. The more difficult the effort; the higher the score in the effort evaluation table.

<u>Time:</u> Will the effort be quick (e.g. a two day course) or time consuming (e.g. a three month process)? The more time consuming the effort; the higher the score in the effort evaluation table.

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<u>Value</u>: Impact or contribution to the functions and needs of the individual, department or County. The more value created by the effort, the higher the score in the effort evaluation table.

<u>High:</u> Indicates that the effort will be exceptionally difficult or time consuming for the employee to complete, will require advanced skills and additional professional growth. High has a point value of 3.

<u>Medium:</u> Indicates the effort will be challenging or time consuming but within reach given the employees existing skill set. Medium has a point value of 2.

<u>Low:</u> Indicates the effort will not necessarily be challenging in skill but could be excessively time consuming. Low has a point value of 1.

<u>PAC:</u> Performance Award Committee. The PAC is comprised of department head volunteers willing to make the time commitment necessary to evaluate the effort proposals and completed efforts. The PAC will meet after regularly scheduled monthly Department Head Meetings.

APPROVED this 16th day of September, 2015

WASCO COUNTY
BOARD OF COMMISSIONERS
Scott C. Hege
Commission Chair
Rod L. Runyon
County Commissioner
Steven D. Kramer
County Commissioner
APPROVED AS TO FORM:
APPROVED AS TO FORIVI.
Kristen Campbell
Wasco County Counsel

Performance Award Effort Proposal			PAC Review Date:				
To:	Wasco County Performance Award Committee		Decision: Approved Denied				
From:	Department Head name Employee name		Notes:				
Date:	00/00/0000						
Subject:	Performance Award Effort Prop	osal Summary					
Is the employe	e eligible for a performance awar	rd (see criteria on page	e 1)? Yes / No				
Effort Summar	y (Please provide an overview of	the proposed effort):					
Effort Benefits (What are the benefits and who is the benefactor? Individual, Department or County?):							
Defined Object	cives/Deliverables/Timelines (<i>Wh</i>	at is the result and wh	en will it be complete?):				
		High (3 points)	Medium (2 points)	Low (1 point)			
Difficulty of eff	ort						
Time necessary	y to complete						
Value to self, d	epartment or County						
			Total Score:				
				1			
Signature of de	epartment head:						
Signature of er	nployee:						

Signatures will be obtained following approval of the PAC.

Agenda Item Resource Advisory Committee

• <u>Proposed Projects</u>

2015 Mt Hood Proposed RAC Title II Projects

					Is Project Funding		2015 Proposed	Indirect	Available to	
County	FY	Sponsor	Project No.	Project Name	Flexible?		_	S2X606		Shorthand Code
Hood River	2015	USFS		Hood River Noxious Weeds	Yes	1	\$26,490	\$1,730	\$24,760	
Hood River	2015	USFS		Leopard Thinning	Yes	2	\$50,290	\$3,290	\$47,000	
Hood River	2015	USFS					\$0	\$0	\$0	
Hood River	2015	USFS					\$0	\$0	\$0	
Hood River	2015						\$0	\$0	\$0	
Hood River County Total (Available Funds = \$74,924)			\$76,780	\$5,020	\$71,760					
Wasco	2015	USFS		Barlow Noxious Weeds	Yes	1	\$49,965	\$3,265	\$46,700	
Wasco	2015	USFS		Sportmans Paradise Thinning	Yes	2	\$32,100	\$2,100	\$30,000	
Wasco	2015	USFS		Voodoo Mastication	Yes	3	\$13,910	\$910	\$13,000	
Wasco	2015	USFS		Hesslan Thinning	Yes	4	\$53,500	\$3,500	\$50,000	
Wasco	2015						\$0	\$0	\$0	
Wasco	2015						\$0	\$0	\$0	
Wasco	2015						\$0	\$0	\$0	
Wasco County Total (Available Funds = \$ 102,403)				\$149,475	\$9,775	\$139,700				
Grand Total							-			

Agenda Item Work Space Reconfiguration

- No documents have been submitted for this item
 - RETURN TO AGENDA

Agenda Item Public Hearing – Planning

- Summary of Information
- Board of County Commissioners Options and Staff
 Recommendations
- Maps
- July 7, 2015 Planning Commission Notice of Decision & Staff Report
- ORS 215.130
- Appeal of Land Use Decision Application & Grounds for Appeal
- Staff Response to Grounds for Appeal
- 7.7.2015 Planning Commission Minutes
- Additional Information provided by Carrie Richter
 for the Planning Commission Hearing
- Application PLANCU-14-09-00004



Wasco County Planning Department

"Service, Sustainability & Solutions"

2705 East Second St. • The Dalles, OR 97058 (541) 506-2560 • wcplanning@co.wasco.or.us www.co.wasco.or.us/planning

SUMMARY OF INFORMATION

Prepared for Board of County Commissioners Hearing

FILE # PLAAPL-15-07-0001 of PLANCU-14-09-0003

HEARING DATE: September 16, 2015 NOTICE OF HEARING: September 1, 2015

REQUEST: Appeal of the July 7, 2015 Wasco County Planning Commission decision that denied the following: (1) verification of a non-conforming use (a previously existing single-family dwelling that burned down in the 2013 Government Flats Complex wildfire) and (2) replacement of that use (construct a new, slightly larger single-family dwelling and two new accessory buildings in the same location).

JULY 7, 2015 PLANNING COMMISSION DECISION:

Denial of both requests (4 Planning Commission votes in favor of the decision; 3 opposed)

APPLICANT:

Joe Garofoli

4408 NE 77th Avenue

Portland, OR 97218-3924

OWNER:

Joe Garofoli

Same

APPLICANT'S CONSULTANTS:

Leslie Hauer, Planning Consultant

Carrie Richter, Legal Counsel

PROPERTY INFORMATION:

Zoning:

A-1 (160), Exclusive Farm Use Zone in Wasco County

EPD-8, Sensitive Wildlife Habitat Overlay Zone (Big Game Winter Range)

Location:

The subject parcel is located on an access road, approximately 220' south of Obrist Road,

approximately 3.1 miles west of Dutch Flat Road, approximately 10 miles southwest of The Dalles,

Oregon; and is further described as:

Tax Lot

Acct #

Acres

1S 12E 18 402

16341

13.54

ATTACHMENTS:

- A. Summary of Information
- B. Board of County Commissioners Options & Staff Recommendations
- C. Maps
- D. July 7, 2015 Planning Commission Notice of Decision and Staff Report
- E. ORS 215.130
- F. Appeal of Land Use Decision Application and Grounds for Appeal
- G. Staff Response to Grounds for Appeal

Attachment A – SUMMARY OF INFORMATION

The Planning Commission's Notice of Decision document and associated Staff Report is enclosed as **Attachment D** and was available at the Wasco County Planning Department for review one week prior to the September 16, 2015 Board of County Commissioner's hearing. This summary does not supersede or alter any of the findings or conclusions in the decision or staff report.

An application was made by Joe Garofoli on September 8, 2014, to replace an existing recreational cabin (a single-family dwelling) and two sheds (accessory buildings) that burned in the 2013 Government Flats Complex Wildfire through the verification of a nonconforming use process specified in Chapter 13 of the Wasco County Land use and Development Ordinance.

The applicant provided materials that state a single-wide mobile home was placed on the property in 1979. Subsequently, a "shell" was constructed and later enclosed in 1980 through 1981. In 1982, the dwelling appeared on the Wasco County Assessor's records as a residence. At the time of construction, (1979), the property was zoned A-3, an agriculture land use designation that allowed new non-agriculture dwellings through a land use application and permit. At this time, a septic approval and compliance with Building Codes would have also been required for new dwellings.

Staff prepared an analysis and recommendation to the Wasco County Planning Commission using available information from the Wasco County Planning Department, Mid-Columbia Building Code Services, North Central Public Health District — Environmental Health Department, Wasco County Assessor's Office and additional information provided by the applicant, including signed statements from several neighbors and photographs.

As explained in the attached staff report (Attachment D) and response to the applicant's grounds for appeal (Attachment G), Staff was unable to confirm the burned dwelling and accessory buildings obtained the required land use permits at the time of construction in 1979 or at the time of subsequent alterations through 1982. Because the development cannot be verified as lawfully established, staff did not recommend replacement as the process for which to approve a new dwelling and accessory buildings on the subject property.

The Planning Commission met on July 7, 2015 for a public hearing to consider the application. Based on Staff's analysis and testimony and information shared by the applicant at the hearing, the Planning Commission voted 4:3 to deny the requests. Notice of the Planning Commission decision was issued July 9, 2015, and a 12-day appeal period was provided, which ended on July 21, 2015. The Planning Commission Decision and Staff Report has been available for review at the Wasco County Planning Department for more than one week prior to the Board of County Commissioner's hearing.

Mr. Garofoli submitted an appeal to the Planning Commission's decision July 17, 201S and requested a September hearing date with the Board of County Commissioners. The appeal application and grounds for appeal are enclosed as Attachment F. Staff's response to the grounds for appeal is enclosed as Attachment G.

Please note, the applicant did not request the review of any other type of new dwelling that may be allowed on some properties through a new land use application. Non-replacement dwelling examples could include a non-farm dwelling or a lot-of-record dwelling. 5taff's report and recommendations and the Planning Commission decisions are limited to the review of the two requests made by the applicant: (1) Verification of a non-conforming use (a previously existing single-family dwelling that burned down

Return to Agenda

in the 2013 Government Flats Complex wildfire) and (2) <u>replacement of that use</u> (construct a new, slightly larger single-family dwelling and two new accessory buildings in the same location). Please see the attached Staff Report for additional information (Attachment D).

Attachment B – OPTIONS AND STAFF RECOMMENDATION

BOARD OF COUNTY COMMISSION OPTIONS

- A. Affirm the Wasco County Planning Commission's decision to deny the (1) non-conforming use determination and deny the (2) replacement development; or
- B. Reverse the Wasco County Planning Commission's decision and approve the (1) non-conforming use determination and approve the (2) replacement development with conditions of approval recommended by the Planning Department; or
- C. Remand the Wasco County Planning Commission decision back to staff for additional analysis and a future hearing date.
- D. Continue the hearing to a date and time certain to allow the submittal of additional information.

STAFF RECOMMENDATION

Staff recommends Option A: affirm the Planning Commission's decision to deny requests (1) and (2) on the grounds that the original development was not lawfully established and therefore cannot be verified or replaced through WCLUDO *Chapter 13 Nonconforming Uses, Buildings and Lots.*

PROPOSED CONDITIONS OF APPROVAL

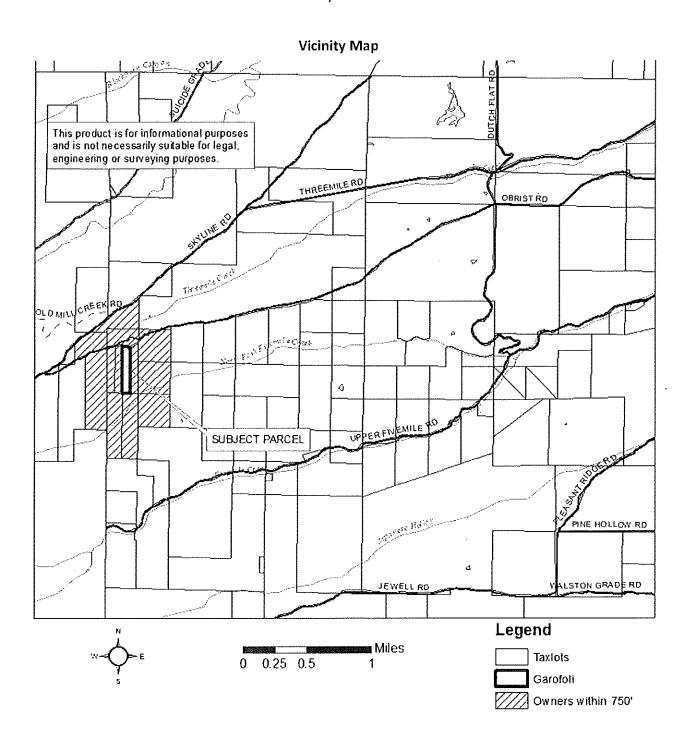
If the Planning Commission decision is reversed, and the Board of County Commissioners decides to approve the requested development, staff recommends the following condition of approval:

1. Replacement dwelling and accessory buildings comply with the property development standards of the applicable zone (WCLUDO Chapter 3) as well as the required wildfire safety and prevention requirements for all new development (WCLUDO Chapter 10).

Attachment C - Maps

Applicant/Owner: Joe Garofoli

1S 12E 18, Tax Lot 402

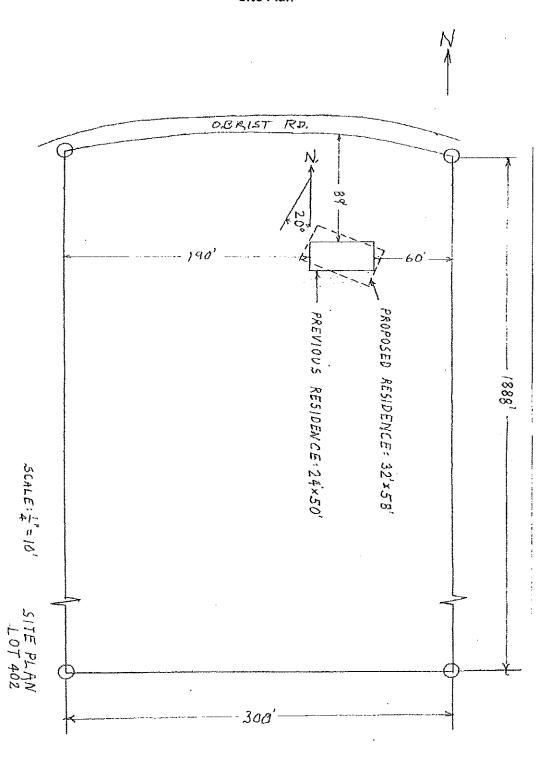


Attachment C - Maps

Applicant/Owner: Joe Garofoli

1S 12E 18, Tax Lot 402

Site Plan



Return to Agenda



Wasco County Planning Department

"Service, Sustainability & Solutions"

2705 East Second St. • The Dalles, OR 97058 (541) 506-2560 • wcplanning@co.wasco.or.us www.co.wasco.or.us/planning

PLANNING COMMISSION NOTICE OF DECISION

FILE # PLANCU-14-09-0003

HEARING DATE: July 7, 2015 **NOTIFICATION DATE: July 9, 2015**

REQUESTS: (1) Verification of a non-conforming use (a previously existing single-family dwelling that burned down in the 2013 Government Flats Complex wildfire) and (2) replacement of that use (construct a new, slightly larger single-family dwelling and two new accessory buildings in the same location).

DECISION: Denial of both requests (4 Planning Commission votes in favor of the decision; 3 opposed)

APPLICANT:

Joe Garofoli

4408 NE 77th Avenue

Portland, OR 97218-3924

OWNER:

Joe Garofoli

Same

APPLICANT'S CONSULTANTS:

Leslie Hauer, Planning Consultant

Carrie Richter, Legal Counsel

PROPERTY INFORMATION:

Zoning:

A-1 (160), Exclusive Farm Use Zone in Wasco County

EPD-8, Sensitive Wildlife Habitat Overlay Zone (Big Game Winter Range)

Location:

The subject parcel is located on an access road, approximately 220' south of Obrist Road,

approximately 3.1 miles west of Dutch Flat Road, approximately 10 miles southwest of The Dalles,

Oregon; and is further described as:

Tax Lot

Acct #

Acres

1S 12E 18 402

16341

13.54

ATTACHMENTS:

- A. Time Limits & Appeal Information
- B. Maps
- C. Planning Commission Report
- D. ORS 215.130

ATTACHMENT D - PLANNING COMMISSION NOTICE OF DECISION AND STAFF REPORT SIGNED THIS 9th day of July, 2015, at The Dalles, Oregon.

Angle Brewer, AIC

Planning Director

State of Oregon County of Wasco

Signed or attested before me on July 9, 2015, by Angie Brewer, Planning Director.

Notary Public - State of Orego

OFFICIAL SEAL
BRENDA L JENKINS
NOTARY PUBLIC-OREGON
COMMISSION NO. 464550
MY COMMISSION EXPIRES FEBRUARY 24, 2016 (

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: Oregon Revised Statutes, Chapter 215, requires that if you receive this notice, it must promptly be forwarded to the purchaser.

ATTACHMENT A - TIME LIMITS & APPEAL INFORMATION

APPEAL PROCESS:

The decision date for these land use reviews is **Tuesday July 7, 2015**; notification was provided on **July 9, 2015**. The decision of the Planning Commission shall be final unless an appeal from an aggrieved party is received by the Planning Director within twelve (12) days of the mailing date of this decision, **Tuesday, July 21, 2015**, at 4:00 p.m., or unless the Board of County Commissioners, on its own motion, orders review within twelve (12) days of the date of decision. A complete record of the matter is available for review upon request during regular business hours or copies can be ordered at a reasonable price at the Wasco County Planning Department. Notice of Appeal forms may also be obtained at the Wasco County Planning Department. The filing fee for an appeal to the Planning Commission decision is \$250.

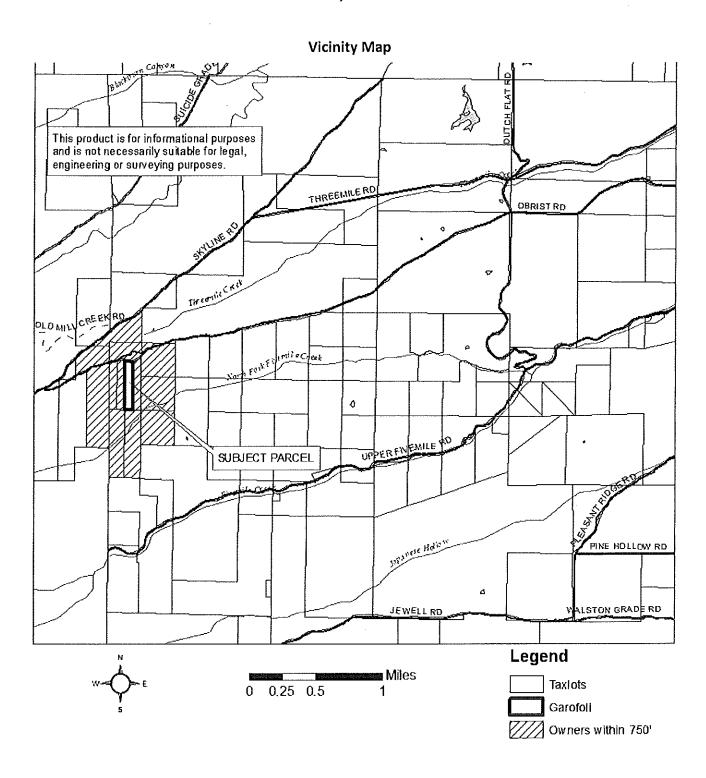
FINDINGS OF FACT:

Findings of fact approving this request may be reviewed at the Wasco County Planning Department, 2705 East Second Street, The Dalles, Oregon, 97058, or are available for purchase at the cost of \$0.25 per page. These documents are also available online at: http://co.wasco.or.us/planning/ under Pending Land Use Actions. The table is sorted alphabetically by the name of the applicant. The information will be available until the end of the appeal period.

Attachment B - Maps

Applicant/Owner: Joe Garofoli

1S 12E 18, Tax Lot 402

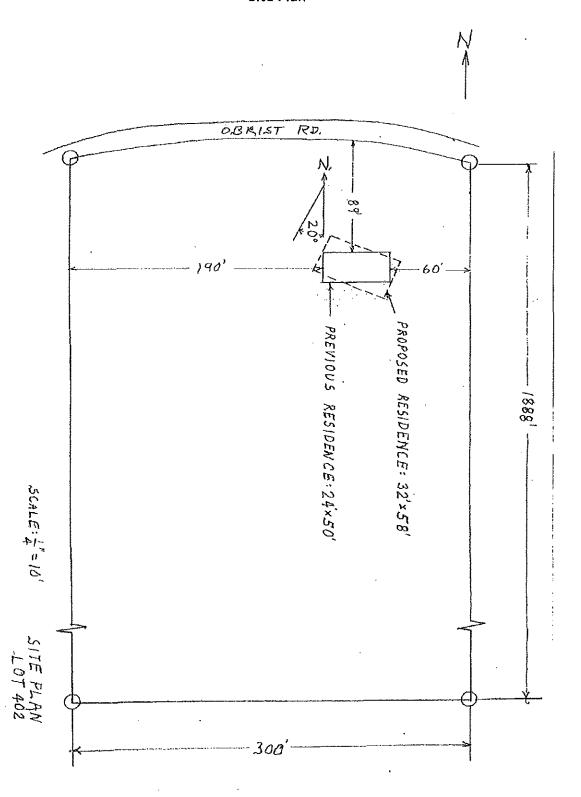


Attachment B - Maps

Applicant/Owner: Joe Garofoli

1S 12E 18, Tax Lot 402

Site Plan



File Number:

PLANCU-14-09-0003

Applicant/Owner:

Joe Garofoli

Applicant's

Leslie Hauer, Planning Consultant

Consultants:

Carrie Richter, Legal Counsel

Requests:

(1) Verification of a non-conforming use (a previously existing single-family dwelling that burned down in the 2013 Government Flats Complex wildfire) and

(2) replacement of that use (construct a new, slightly larger single-family

dwelling and two new accessory buildings in the same location).

Hearing Date:

July 7, 2015

Decision:

(1) Nonconforming Use Determination: Denial

(2) Replacement dwelling and accessory buildings: Denial

Location:

The subject parcel is located on an access road, approximately 220 feet south of

Obrist Road, approximately 3.1 miles west of Dutch Flat Road, approximately 10

miles southwest of The Dalles, Oregon; more specifically described as:

Existing Tax Lot

Acct#

<u>Acres</u>

1S 12E 18 402

16341

13.71

Zoning:

A-1 (160), Exclusive Farm Use Zone, Wasco County.

The property is also located in the EPD-8, Sensitive Wildlife Habitat Overlay

Zone (Big Game Winter Range).

Past Actions:

None.

Procedure Type:

Quasi-Judicial

Prepared By:

Angie Brewer, Planning Director and Dawn Baird, Associate Planner

APPLICABLE STANDARDS

Wasco County Land Use & Development Ordinance (LUDO)

A. Chapter 13 - Nonconforming Uses, Buildings and Lots

Section 13.050

Verification of Nonconforming Use

Section 13.060

Restoration or Alteration of Nonconforming Use

B. Chapter 3 - Basic Provisions

Section 3.210, A-1 (160), Exclusive Farm Use Zone

Section 3.210.D.10.

Uses Permitted Subject to Standards/Type II Review -

Alteration, restoration, relocation or replacement of a lawfully

established dwelling (discretionary)

I. BACKGROUND

- A. Legal Parcel: The subject property is identified as Parcel 2 of Minor Partition 79-110-WAA3, recorded with the Wasco County Clerk's Office on February 13, 1979. This property meets the definition of a Legal Parcel pursuant to Section 1.090 of the WCLUDO because it is a parcel in a duly recorded partition.
- B. Site Description: The subject parcel contains steep slopes. The northern 40% (+/-) of the parcel contains north-facing slopes averaging 33 %. The southern 60% (+/-) of the parcel contains east-facing slopes averaging 25%. There is a small draw near the center of the property where the slopes change direction. The property is approximately 2,520 feet above sea level (ASL) at its highest point, and is approximately 2,280 feet ASL at its lowest point. The northern third of the property contains scattered tree cover, while the remainder is heavily wooded with trees. Open areas contain natural grassland.
- C. Surrounding Land Use: Properties to the east, south, and west contain similar slopes as the subject parcel (25-33% north, east, and southeast-facing). Slopes on properties north of Obrist Road are generally less than 5%, east-facing. Threemile Creek flows through property to the northeast, and the North Fork of Fivemile Creek flows through properties to the south and southeast. With the exception of property to the east which, according to the Assessor's Office, contains a single-family dwelling, all adjacent properties are vacant. Scattered trees exist throughout the area with draws and areas along creeks being heavily vegetated with trees.
- D. Context of Proposal: According to information provided by the applicant, a single-wide trailer was placed on the subject property in 1979. Later that year a "shell" was constructed around the trailer. Between 1980 and 1981, the shell was enclosed and an addition was constructed. In 1982, a residence appears on the Wasco County Assessor's tax rolls. The dwelling is used as a recreational cabin (a single-family dwelling) until 2013, when a wildfire burned it down. The

applicant began working with the Wasco County Planning Department on procedures for replacement within one-year of the structure loss.

The Wasco County Zoning Ordinance in effect at the time of the original development listed "single family dwellings" and "accessory buildings" as a use that would have been allowed with a land use permit on the subject parcel (then zoned A-3). Unfortunately, no permits for a dwelling or accessory building could be found by the Planning Department, Building Department or Health Department for the destroyed buildings.

The applicant contends that through ORS 215.130(11)¹, the structures can be deemed legal if continued existence and use can be demonstrated for 20 years prior to the date of the application. The applicant provided tax records, photographs and statements from long time area residents to verify the continued existence of the buildings. Staff does not argue that the buildings have existed and been continuously used for the last 20 years, however Staff contends that verification of continued use does not demonstrate compliance with rules in effect at the time of development. Furthermore, Staff contends that ORS 215.130(11) does not preclude the County from requiring that information when considering an application for the verification of a non-conforming use.

II. FINDINGS:

Wasco County Land Use & Development Ordinance (LUDO)

Before the applicant can propose to replace the destroyed cabin and accessory buildings, they must first be found to be legally existing non-conforming uses.

A. Chapter 13 - Nonconforming Uses, Buildings and Lots

Section 13.010, Purpose

It is necessary and consistent with the establishment of this Ordinance that all uses and structures incompatible with permitted uses or structures in each zone be strictly regulated and permitted to exist only under rigid controls. The purpose of such regulation and control is to discontinue nonconforming use or structure, change a nonconforming use or structure to a conforming status, or allow alterations to a nonconforming use or structure that do not increase the level of adverse impact on the neighborhood, or are required for the use or structure ta comply with state or local health or safety requirements.

Section 13.020, Continuation of a Nonconforming Use

Except os is hereafter provided in this Ordinance, the lawful use of a building or structure of any lond or premises lawfully existing ot the time of the effective date of this Ordinance or at the time of o change in the official zoning maps may be continued, although such use does not

¹ ORS 215.130(11) states: "For purposes of verifying a use under subsection (5) of this section, a county may not require an applicant for verification to prove the existence, continuity, nature and extent of the use for a period exceeding 20 years immediately preceding the date of application." Source: https://www.oregonlegislature.gov.

conform with the provisions of this Ordinance. Alterations to nonconforming structures may only be made consistent with Section 13.060.

Section 13.030, Conveyance of Nonconforming Use

(***)

Section 13.040, Construction on and Conveyance of Nonconforming Legal Parcels

(***)

Section 13.050, Verification of Nonconforming Use

Must meet lawfully established and discontinuance or abandonment criteria below.

- A. <u>Lawfully Established</u>: For a nonconforming use to be verified as lawfully established it shall be consistent with all of the following:
 - 1. The nonconforming use has not been expanded in size or area or changed in purpose or use beyond what was lawfully established;

<u>FINDING</u>: The dwelling has changed since it was constructed. According to information provided by the applicant, a single-wide trailer was placed on the subject property in 1979. Later that year a "shell" was constructed around the trailer. Between 1980 and 1981, the shell was enclosed and an addition was constructed. In 1982, a residence appears on the Wasco County Assessor's tax rolls. The dwelling was used unchanged as a recreational cabin (a dwelling) until 2013, when a wildfire burned it down. No permits or other records could be located in the Planning Department, Building Department or Health Department to demonstrate that the use was lawfully established in 1979 or lawfully altered at a later date. Given this information, staff finds that the use is inconsistent with this criterion.

2. The property on which the nonconforming use is located meets the definition of legal parcel in Chapter 1 of this ordinance;

<u>FINDING:</u> The subject property is identified as Parcel 2 of Minor Partition 79-110-WAA3, recorded with the Wasco County Clerk's Office on February 13, 1979. This property meets the definition of a Legal Parcel pursuant to Section 1.090 of the WCLUDO because it is a parcel in a duly recorded partition.

- 3. The nonconforming use was lawfully established on or before the effective date of the provisions of this ordinance prohibiting the use verified by either a or b below. No unlawful use of property existing at the time of the effective date of the provisions of this ordinance shall be deemed a nonconforming use.
 - a. <u>Type I Verification</u>: Lawfully established is verified by non-discretionary evidence including but not limited to zoning approval or County Assessor records verifying the date of establishment. This type of verification is not subject to any review process because it does not involve the exercise of any discretion or judgment. If the applicant wishes documentation of this it shall be done as a Land Use Verification Letter.

 Type II Verification: Lacking non-discretionary evidence, lawfully established is verified by a discretionary process consistent with Section 2.060(A)(9).

It is the burden of the applicant to provide a preponderance of evidence which will allow the Planning Director to conclude the nonconforming use was lawfully established. Such evidence includes but is not limited to:

- -Utility Bills and Records (phone, power, sewer, water)
- -Aerial Photographs
- -Dated Photos
- -Notarized Letters or Affidavits affirming the date of establishment

FINDING: According to information provided by the applicant, the development was constructed in 1979 and modified several times between 1979 and 1982. County Assessor records verify the development existed in 1982. In 1979 the subject property was zoned A-3 and the Wasco County Land Use and Development Ordinance in effect at the time required a land use application and review for new dwellings, accessory buildings and related utilities for water, power and sanitation. No permits or any other department records could be found to demonstrate past compliance or current compliance with applicable land use regulations, building codes or health and sanitation requirements. Given this information, the request is inconsistent with the Type I verification process.

Pursuant to the Type II verification process, the applicant provided Assessor's records, photographs and letters from longtime nearby residents to demonstrate the existence and ongoing use of the dwelling and accessory buildings. The applicant also provided a written statement contending that ORS 215.130(11) allows for the recognition of structures whose continued existence and use can be demonstrated for 20 years prior to the date of the application. As previously noted in Finding (D) above, Staff does not argue that the buildings have existed and been continuously used for the last 20 years. However Staff finds that verification of continued use does not demonstrate compliance with rules known to be in effect at the time of development and that ORS 215.130(11) does not preclude the County from requiring that information when considering an application for the verification of a non-conforming use. In sum, staff's analysis concludes that the dwelling and accessory buildings lost in the 2013 wildfire were not lawfully established and therefore cannot be verified as lawfully established nonconforming uses.

- B. <u>Discontinuance or Abandonment</u>: For a nonconforming use to be verified as lawfully established it must not have been discontinued or abandoned according to the following criteria. Based on the circumstances, the Director shall determine whether discontinuance or abandonment shall be reviewed as a Type I or Type II process as described in A above.
 - The reference period for determining whether an abandonment or interruption of a nonconforming use or an aspect thereof has occurred shall be twelve (12) consecutive months in any of the ten (10) years preceding the date of the application. Proof of intent to abandon is not required to determine that a nonconforming use has been discontinued or abandoned.
 - An abandonment or interruption of a use may arise from the complete cessation of the actual use for a twelve (12) month period even if improvements to support the use remain in place.

Attachment C – Final Planning Commission Report

- 3. An interruption or abandonment for a twelve (12) month period that constitutes less than full cessatian af the use or a portion thereof may result in a declaration of a continuing use, but of a lesser intensity or scope than what would have been allowable if the nature and extent of the use as of the date it became nonconforming had continued, even if improvements to support the full use remain in place.
- 4. A change in the noture of the use may result in a determination that the use has been obondoned or has ceased for a twelve (12) month period if there are no common elements between the activities of the previous use and the current use.

Factors to be considered in determining whether there has been a change in the nature of a use shall include, but are not limited to, consideration of the type of activities being conducted, the operating characteristics of the activities associated with the use (including off-site impacts of those activities), changes in structures associated with the use and changes in the degree to which the activities associated with the use occupy the site.

<u>FINDING:</u> According to the applicant, the dwelling was used as a recreational cabin and a "weekend getaway" cabin. Sufficient information was provided as part of the application materials to verify that the dwelling has been used consistently in this manner since the time of its construction in 1979.

<u>SUMMARY FINDING</u>: Section 13.050 *Verification of a Nonconforming Use* requires compliance with all of criteria (A) and (B). Although the applicant was able to provide information confirming that the use had not been discontinued or abandoned, the use could not be verified as a lawfully established. Given this information, the single-family dwelling and accessory buildings lost in the 2013 wildfire are not lawfully established and could not be verified as nonconforming uses.

Section 13.060, Restoration or Alteration of Nanconforming Use

Restoration or alteration of a nonconforming use or structure sholl be reviewed according to Section 2.060(A)(9) and limited to the applicable criteria below and Verification of Nonconforming Use in Section 13.050 above. Any other restorations or alterations shall conform to all of the criteria of this ordinance.

Maintenance, repair, alterotion, restoration or replacement of a lawfully implemented or established dwelling in the Exclusive Farm Use or Forest Zone sholl be governed by those zones and not be subject to the olterotion longuage in Chopter 13. However, these dwellings will be subject to a Chapter 6 ar 7 Variance Review if they cannot meet all of the provisions of the Wasco County Land Use and Development Ordinance, and must comply with all current health and sofety ordinances including but not limited to Geologic Hozard Overloy (Section 3.750) Fire Safety Standards (Chapter 10) and Flood Damage Prevention (Chapter 22).

A. Restoration ar Replacement of a Nonconforming Structure Destroyed by Fire, Other Casualty or <u>Disoster</u>: If a nonconforming structure or a structure containing a nonconforming use is destroyed by fire, other casualty or natural disaster, restoration or replacement shall be permitted subject to the following criteria:

Attachment C - Final Planning Commission Report

1. <u>Time Limitation:</u> An application is received within twelve (12) months from the occurrence of the fire, casualty ar natural disaster. The application shall include official documentation establishing the date of the fire, casualty, or natural disaster. If an application is not received within twelve (12) manths from the occurrence, the nonconforming use shall be considered discantinued.

<u>FINDING</u>: The dwelling and accessory buildings were destroyed in the Government Flats wildfire of 2013. An application was received from the applicant on September 17, 2014 – within twelve months of the occurrence of the fire, consistent with the time limitation of this provision.

2. <u>Size:</u> The restaration of a nonconfarming building or structure may not increase the floor area or create a greater nonconformance than existed at the time of damage or destruction. Any changes in height, additions of attics basements, decks or elements that were not part of the original structure beyond what is necessary to comply with current building code or building industry standards shall be considered an alteration.

<u>FINDING</u>: The original cabin was a 1,200 square foot, single-story dwelling (footprint of 24'x50'). The proposed replacement dwelling is 1,856 square foot, single-story dwelling (footprint of 32'x58'). As proposed, the replacement building would increase the floor area, and therefore must be considered an alteration. The applicant states that the replacement accessory buildings will replace the functioning accessory buildings at the time of the fire, including a 192 square foot, single-story storage shed (footprint of 12'x16') and a 144 square foot, single-story wood shed (footprint of 12'x12'). No information was provided about the size of the previously existing accessory buildings.

3. <u>Lacatian</u>: The restaration shall be sited on the same footprint as the original structure. However, if the applicant wishes to change the location to better comply with current setback, buffer ar health and safety stondards, the restoration will be allowed to be relocated the minimum distance necessary to achieve this goal. Any relocation beyond the minimum distance necessary shall be considered an alteration.

<u>FINDING</u>: The applicant provided a site plan depicting the replacement dwelling with a larger footprint and a slightly different angle, in the same location as the original dwelling. The proposed accessory buildings are not shown on the site plan.

4. <u>Health & Safety:</u> The restaration shall comply with all current health and safety ordinances including but not limited to Geologic Hazard Overlay (Section 3.750) Fire Safety Standards (Chapter 10) and Flood Domage Prevention (Chapter 22).

<u>FINDING</u>: The subject parcel is not located in the Geologic Hazard Overlay or Flood Hazard Overlay. All new development is required to comply with Fire Safety Standards. As noted throughout this report, the use was not lawfully established and could not be verified as a nonconforming use pursuant to Section 13.050. Therefore, the restoration or replacement cannot be approved through Chapter 13 *Nonconforming Uses, Buildings and Lots.*

B. <u>Alteration of a noncanfarming use to Comply with State or Local Health or Safety Requirements:</u> No conditions shall be placed upon the continuation or alteration of a nonconforming use when

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necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structures associated with the use.

Proof of compliance with health or safety requirements or the necessity to maintain in good repair existing structures associated with the use shall be submitted with the application.

<u>FINDING</u>: The proposed alterations are not needed to comply with state or local health or safety requirements. The proposed development would be considered an alteration because the proposed replacement dwelling is larger than the original dwelling. The proposed development would replace destroyed development, and does not include alterations necessary to maintain good repair of existing structures.

- C. Alteration of nonconforming use including but not limited to any combination of the following:
 - Replacing a structure not damaged or destroyed by fire, other casualty or disaster;
 - Expanding a structure beyond its current size;
 - Relocating a structure to a different location on the same legal parcel;
 - 1. <u>Alteration will result in no greater adverse impact on the neighborhood or shall result in less of an adverse impact on the neighborhood considering the criteria listed below:</u>
 - a. Residential Uses Only
 - (1) The nonconforming use is in compliance with all conditions or limitations associated with its creation or approval;
 - (2) The camparative visual appearance between the existing nonconforming use and the proposed alteration;
 - (3) The alteration shall not change the manner or purpose of the use;
 - (4) The proposed alteration shall not result in greater nonconformity to property line setbacks or resource buffer requirements unless the alteration will extend a structure further away from and perpendicular to the property line or resource. Any proposal that would extend an existing structure further toward the property line or resource, or expand an existing structure parallel into a setback or buffer shall also be subject to Chapters 6 & &, Variances and any other applicable review criteria;
 - (5) Relocation shall result in conformity with all property line setbacks and resource buffer requirements unless there is no other location on the property that could comply with all setback and buffer requirements and the relocation would remove the structure from an undesirable location according to the Wasco County Land Use and Development Ordinance such as a water buffer or floodplain. If the relocation cannot conform to all setback and buffer requirements the application shall also be subject to Chapters 6 & 7, Variances and any other applicable review criteria;
 - (6) The alteration must be consistent with Health and Safety Regulations including but not limited to Geologic Hazard Overlay (Section 3.750) Fire Safety Standards (Chapter 10) and Flaod Damage Prevention (Chapter 22);
 - (7) Other factors which impact the character or needs of the neighborhood;
 - b. Non-Residential Nonconforming Uses Only

/*****!**

Attachment C - Final Planning Commission Report

FINDING: The proposed replacement dwelling and accessory buildings would replace previously existing development destroyed by fire; the replacement dwelling will be expanded from its original size; and although the dwelling will be located in the same location, the accessory building locations are not specified on the site plan. Criterion (6) is addressed above. Consistent with (2) through (5) and (7), the proposed alteration (replacement and expansion) would have a similar visual appearance as the previous development (both single-story dwellings); would not change the manner or purpose of the use (continued use as dwelling); the new dwelling would be in the same location (at a modified angle) and would not affect exiting setbacks or resource buffers (no impact on conformity); and would not impact the character or needs of the neighborhood. However, pursuant to criterion (1), alterations are only permitted for lawfully established nonconforming uses that are in compliance with all conditions or limitations associated with its approval. As previously explained above under Section 13.050, the existing dwelling and accessory buildings could not be verified as legally existing or lawfully established nonconforming uses. Given this information, alteration or replacement of the dwelling and accessory buildings destroyed by fire would be inconsistent with Section 13.060(C) and Chapter 13.

- 2. The Planning Director may impose conditions of opproval on any alteration of a nonconforming use, structure(s) or other physical improvements permitted under this section when deemed necessary to ensure the mitigation of any adverse impacts. Such conditions could include but are not limited to:
 - a. Special yards and spaces.
 - b. Fences and walls.
 - c. Special parking and/or loading provisions.
 - d. Street dedication and improvements.
 - e. Control of points of vehicle ingress and egress.
 - f. Special provisions for signs.
 - g. Landscaping and maintenance of grounds.
 - h. Control of noise, light, vibration, dust, odor, fumes, glare, smoke or other similar nuisances.
 - i. Limitation of time for certain activities.
 - j. A time period in which a proposed use shall be developed.
 - k. A limit of total duration of use.

<u>FINDING</u>: Section 13.060(C)(2) allows the Director to impose conditions on the alteration of a nonconforming use. As explained under Section 13.050 above, the previously existing development could not be verified as lawfully established nonconforming uses. Given this information, an alteration pursuant to Section 13.060 cannot be approved, staff is recommending a denial and no conditions of approval are recommended.

<u>SUMMARY FINDING:</u> As explained under Section 13.050, the use could not be verified as a lawfully established nonconforming use or structure. Therefore, the restoration, alteration or replacement of the burned structures cannot be approved through Chapter 13 *Nonconforming Uses, Buildings and Lots.*

D. Chapter 3 – Basic Provisions

Section 3.210, A-1(160), Exclusive Farm Use Zone

A. <u>Purpose</u>: The purpose of the "A-1" Exclusive Farm Use Zone is to preserve and mointain agricultural lands for far use consistent with historical, existing and future needs, including

Attachment C - Final Planning Commission Report

economic needs that pertain to the production of agricultural products. And to permit the establishment of only those uses that are compatible with agricultural activities consistent with the applicable Statutory and Administrative Rule provisions of ORS Chapter 215 and OAR Chapter 660, Division 33.

Uses, buildings or structures hereafter erected, structurally altered, enlarged or moved and land hereafter used in the "A-1" Exclusive Farm Use Zone shall comply with the following regulations. If these regulations are preempted by mandatory ORS's or OAR's those shall be applied directly pursuant to ORS 197.646.

(***)

D. Uses Permitted Subject to Standards/Type II Review: The following uses may be permitted on a legal parcel on lands designated "A-1" Exclusive Farm Use Zone subject to the subsection F - Property Development Standards, subsection H - Agricultural Protection, Chapter 10 - Fire Safety Standards, Chapter 20 - Site Plan Review only if the request includes off-street parking, off-street loading or bicycle parking, as well as any other listed, referenced ar applicable standards.

(***)

10. <u>Alteration, restoration relocation, or replacement of a lawfully established dwelling</u> (discretionary) and/or accessory residential or non-residential building or structure on any part of the legal parcel subject to Sections F(1)(a)(3) - Addition, Modification or Relocation Setbacks and J(3) - Replacement Dwellings (Dwellings only).

FINDING: As previously explained above for the verification of a nonconforming use process, the dwelling appears to have been constructed and subsequently altered without land use approvals or permits. According to the applicant, Mid-Columbia Building Code Services does not retain building permit records dating back to 1979. The Planning Department and Health Department retain copies of land use compatibility statements (required for building permits) and thus records would exist for the subject property if permits were obtained from the Planning Department, Building Department, and/or Health Department. The submitted application materials were unable to demonstrate that the dwelling and accessory buildings were lawfully established. Given this information, the proposed replacement dwelling and accessory buildings are inconsistent with this use and cannot be approved through Section 3.210(D)(10).

Other provisions that could possibly allow for a new single family dwelling and accessory buildings in the Exclusive Farm Use Zone were not proposed by the applicant and therefore were not evaluated by staff.

<u>CONCLUSARY FINDING:</u> Based on the information available at the time of Staff's review, staff concludes the dwelling and accessory buildings destroyed by wildfire in 2013 are not lawfully established nonconforming uses and cannot be replaced or repaired through Chapter 13 *Nonconforming Uses, Buildings and Lats.* Please see Attachment C for staff's recommendation and Planning Commission options.

Attachment D - ORS 215.130

Source: https://www.oregonlegislature.gov/bills_laws/lawsstatutes/1999orLaw0458.html

Viewed: June 30, 2015

"Chapter 458 Oregon Laws 1999

Session Law

AN ACT

SB 470

Relating to nonconforming land uses; amending ORS 215.130.

Be it Enacted by the People of the State of Oregon:

SECTION 1. ORS 215.130 is amended to read:

215.130. (1) Any legislative ordinance relating to land use planning or zoning shall be a local law within the meaning of, and subject to, ORS 250.155 to 250.235.

- (2) An ordinance designed to carry out a county comprehensive plan and a county comprehensive plan shall apply to:
- (a) The area within the county also within the boundaries of a city as a result of extending the boundaries of the city or creating a new city unless, or until the city has by ordinance or other provision provided otherwise; and
- (b) The area within the county also within the boundaries of a city if the governing body of such city adopts an ordinance declaring the area within its boundaries subject to the county's land use planning and regulatory ordinances, officers and procedures and the county governing body consents to the conferral of jurisdiction.
- (3) An area within the jurisdiction of city land use planning and regulatory provisions that is withdrawn from the city or an area within a city that disincorporates shall remain subject to such plans and regulations which shall be administered by the county until the county provides otherwise.
- (4) County ordinances designed to implement a county comprehensive plan shall apply to publicly owned property.
- (5) The lawful use of any building, structure or land at the time of the enactment or amendment of any zoning ordinance or regulation may be continued. Alteration of any such use may be permitted subject to subsection (9) of this section. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. Except as provided in ORS 215.215, a county shall not place conditions upon the continuation or alteration of a use described under this subsection when necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structures associated with the use. A change of ownership or occupancy shall be permitted.
- (6) Restoration or replacement of any use described in subsection (5) of this section may be permitted when the restoration is made necessary by fire, other casualty or natural disaster. Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster.
- (7) Any use described in subsection (5) of this section may not be resumed after a period of interruption or abandonment unless the resumed use conforms with the requirements of zoning ordinances or regulations applicable at the time of the proposed resumption.

Attachment D - ORS 215.130

- (8) Any proposal for the verification or alteration of a use under subsection (5) of this section, except an alteration necessary to comply with a lawful requirement, for the restoration or replacement of a use under subsection (6) of this section or for the resumption of a use under subsection (7) of this section shall be subject to the provisions of ORS 215.416. An initial decision by the county or its designate on a proposal for the alteration of a use described in subsection (5) of this section shall be made as an administrative decision without public hearing in the manner provided in ORS 215.416 (11).
 - (9) As used in this section, "alteration" of a nonconforming use includes:
 - (a) A change in the use of no greater adverse impact to the neighborhood; and
- (b) A change in the structure or physical improvements of no greater adverse impact to the neighborhood.
- (10) A local government may adopt standards and procedures to implement the provisions of this section. The standards and procedures may include but are not limited to the following:
- (a) For purposes of [verification of] verifying a use under subsection (5) of this section, a county may adopt procedures that allow an applicant for verification to prove the existence, continuity, nature and extent of the use only for the 10-year period immediately preceding the date of application. Evidence proving the existence, continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, lawfully existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application;
- (b) Establishing criteria to determine when a use has been interrupted or abandoned under subsection (7) of this section; or
- (c) Conditioning approval of the alteration of a use in a manner calculated to ensure mitigation of adverse impacts as described in subsection (9) of this section.
- (11) For purposes of verifying a use under subsection (5) of this section, a county may not require an applicant for verification to prove the existence, continuity, nature and extent of the use for a period exceeding 20 years immediately preceding the date of application.

Approved by the Governor July 1, 1999

Filed in the office of Secretary of State July 2, 1999

Effective date October 23, 1999"

Attachment E - ORS 215.130

Source: https://www.oregonlegislature.gov/bills laws/lawsstatutes/1999orLaw0458.html

Viewed: June 30, 2015

"Chapter 458 Oregon Laws 1999 Session Law

AN ACT

SB 470

Relating to nonconforming land uses; amending ORS 215.130.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 215.130 is amended to read:

215.130. (1) Any legislative ordinance relating to land use planning or zoning shall be a local law within the meaning of, and subject to, ORS 250.155 to 250.235.

- (2) An ordinance designed to carry out a county comprehensive plan and a county comprehensive plan shall apply to:
- (a) The area within the county also within the boundaries of a city as a result of extending the boundaries of the city or creating a new city unless, or until the city has by ordinance or other provision provided otherwise; and
- (b) The area within the county also within the boundaries of a city if the governing body of such city adopts an ordinance declaring the area within its boundaries subject to the county's land use planning and regulatory ordinances, officers and procedures and the county governing body consents to the conferral of jurisdiction.
- (3) An area within the jurisdiction of city land use planning and regulatory provisions that is withdrawn from the city or an area within a city that disincorporates shall remain subject to such plans and regulations which shall be administered by the county until the county provides otherwise.
- (4) County ordinances designed to implement a county comprehensive plan shall apply to publicly owned property.
- (5) The lawful use of any building, structure or land at the time of the enactment or amendment of any zoning ordinance or regulation may be continued. Alteration of any such use may be permitted subject to subsection (9) of this section. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. Except as provided in ORS 215.215, a county shall not place conditions upon the continuation or alteration of a use described under this subsection when necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structures associated with the use. A change of ownership or occupancy shall be permitted.
- (6) Restoration or replacement of any use described in subsection (5) of this section may be permitted when the restoration is made necessary by fire, other casualty or natural disaster. Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster.
- (7) Any use described in subsection (5) of this section may not be resumed after a period of interruption or abandonment unless the resumed use conforms with the requirements of zoning ordinances or regulations applicable at the time of the proposed resumption.

Attachment E – ORS 215.130

- (8) Any proposal for the verification or alteration of a use under subsection (5) of this section, except an alteration necessary to comply with a lawful requirement, for the restoration or replacement of a use under subsection (6) of this section or for the resumption of a use under subsection (7) of this section shall be subject to the provisions of ORS 215.416. An initial decision by the county or its designate on a proposal for the alteration of a use described in subsection (5) of this section shall be made as an administrative decision without public hearing in the manner provided in ORS 215.416 (11).
 - (9) As used in this section, "alteration" of a nonconforming use includes:
 - (a) A change in the use of no greater adverse impact to the neighborhood; and
- (b) A change in the structure or physical improvements of no greater adverse impact to the neighborhood.
- (10) A local government may adopt standards and procedures to implement the provisions of this section. The standards and procedures may include but are not limited to the following:
- (a) For purposes of [verification of] verifying a use under subsection (5) of this section, a county may adopt procedures that allow an applicant for verification to prove the existence, continuity, nature and extent of the use only for the 10-year period immediately preceding the date of application. Evidence proving the existence, continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, lawfully existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application;
- (b) Establishing criteria to determine when a use has been interrupted or abandoned under subsection (7) of this section; or
- (c) Conditioning approval of the alteration of a use in a manner calculated to ensure mitigation of adverse impacts as described in subsection (9) of this section.
- (11) For purposes of verifying a use under subsection (5) of this section, a county may not require an applicant for verification to prove the existence, continuity, nature and extent of the use for a period exceeding 20 years immediately preceding the date of application.

Approved by the Governor July 1, 1999

Filed in the office of Secretary of State July 2, 1999

Effective date October 23, 1999"



Wasco County Planning Department "Service, Sustainability & Solutions" 2705 East Second St. • The Dalles, OR 97058

2705 East Second St. • The Dalles, OR 97058 (541) 506-2560 • wcplanning@co.wasco.or.us www.co.wasco.or.us/planning

PLAAPL-15-07-0001	OF PLANCU-14-09-
FILE NUMBER:	

APPEAL OF LAND USE DECISION

Name Mailin City/S Phone APPE	LLANT INFORMATIO e: _ JOE GAI ng Address: _ 44			
Mailin City/S Phone APPE		ROFOLI		
City/S Phone	ng Address: _ 4식			
Phone APPE		OS NE JUL	AVE	
APPE	State/Zip: Por	TLAND, GR	97218-3924	
	e:		Email:	
1. A	AL INFORMATION ppeal Type			
N N		ecision to the Planning C sion Decision to the Boa	ommission: Fee = \$250 rd of County Commissioners:	Fee = \$ 1, 200
			r a subsequent appeal, the \$2 applicable for any subsequent	250 fee for the initial appeal shall be appeal costs.
2. A	ppeal Deadline: <u>J</u>	DLY 20 - 12 DAY	S FROM DATE OF D	ecision
D	ate Submitted:			-
by	y postal service or in nless received no late	person. Documents fax er than 4:00 p.m. on the	ed are not considered filed. A deadline stated on the Notice	sco County Planning Department Office An appeal will not be considered timely a of Decision or Resolution, AN APPEAL AL AND FILING FEE ARE RECEIVED.
B. Pa	arty Status: State ho	w the petitioner(s) quali	fies as a party to this matter:	
1	HE APPELLAR	T IS ALSO TI	HE APPLICANT AND	O PROPERTY OWNER

Appeal of Land Use Decision

of the property which is the subject of the application.

determined by the Approving Authority. (Revised 1/92)

Any affected unit of local government or public district or state or federal agency.

" All property owners of record, as provided in (a) above, within the notification area, as described in section 2.080 A.2.,

Any other person, or his representative, who is specifically, personally or adversely affected in the subject matter, as

A Citizen Advisory Group pursuant to the Citizen Involvement Program approved pursuant to O.R.S. 197.160.

	Grounds for appeal: List the specific grounds relied upon in the petition request for review (e.g. ordinance criteria not met, procedural error, etc.) Additional pages may be attached.					
	SEE ATTACHED PAGE					
	De Novo vs. On the record: All appeals to Planning Commission are DeNovo meaning new information can be entered into the record. All appeals to the Board of Commissioners are on the record unless a request is made as part of this request by party filing the petition. Any other party must make such a request no more than seven (7) calendar days after the deadline for filing a petition for review has expired.					
	The appeal is to the Board of Commissioners? □NO	YES				
	I request the hearing to be DeNovo or partial DeNovo?	⊠YES				
	State the reasons you are requesting a DeNovo or partial DeNovo without addressing the merits of action:	the land use				
	THE SON OF THE PROPERTY OWNER AT THE TIME THAT RESTRICTIVE					
	ZONING TOOK EFFECT WISHES TO TESTIFY					
	Indicate any persons known to be opposed to a request for a DeNovo hearing.					
	When practicable, the requesting party shall advise the other parties and attempt to gain their con-	sent.				
	I have attempted to gain the consent of the other parties associated with this file?	□YES				
	If you answered no indicate why this is not practicable. If you answered yes list the parties who have this to be a DeNovo or partial DeNovo hearing.	ve consented fo				
,	- NO OTHER PARTIES PARTICIPATED BEFORE THE RANNIA	16 COMMIS				
,						

Appeal of Land Use Decision Page 2 of 3

and may take such testimony as it deems necessary to fully and fairly address significant procedural or substantive issues raised. The Court shall grant the request only upon findings that:

- A de novo hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action;
- The substantial rights of the parties will not be significantly prejudiced; and

fees prior to their appeal application being considered complete.

The request is not necessitated by improper or unreasonable conduct of the requesting party or by a failure to present evidence that was available at the time of the previous review.

5. Outstanding Appeal Fees: Any person wishing to appeal any decision shall be required to pay all outstanding appeal

I have paid all outstandin	g fees associated with prior appeals:	NIA	□NO □YES
SIGNATURES M Yarofa Name, Title	i/Applicant/ 7	-15-15 Date	
Name, Title	C	Date	
Additional petitioner(s):			
Name	Address	_	
Name	Address		

Appeal of Land Use Decision

Planning File No: PLAN CU-14-09-0003

Grounds for Appeal:

- The Planning Commission erred in finding that the non-conforming residence did not lawfully exist on the property as of March 31, 1980, the date before restrictive zoning took effect.
 - o There was uncontroverted, detailed evidence that the residence existed on the property on March 31, 1980.
 - o No County land use approval was necessary to site a residence on the property on March 31, 1980.
- The Planning Commission erred by not relying on ORS 215.130(11), which creates a presumption that a non-conforming use in existence for the past 20 years where lawfully created, could be used to determine that the use was lawfully established.
- The Planning Commission erred by relying on the lack of a building permit or septic permit when these permits were not required in order to obtain land use approval. These permits relate to building code and environmental quality issues.
- The County does not have a practice of retaining building permits for two years and therefore, the lack of a County-issued building permit, from over 25 years ago, does not direct a conclusion that no permit was obtained.
- In sum, the Planning Commission denied this application because there was no evidence of building and septic permits when the existence of these permits is not necessary to show that residential use of the property was lawfully established. In other words, the Planning Commission imposed an obligation that was not required by either state law or the local code.
- This result is particularly unfair because the applicant cannot re-build and use his property in the way that he, and the previous owners of his property, had for over 25 years, when he was in no way responsible for the fire that resulted in the loss of his home.

ATTACHMENT G – RESPONSE TO GROUNDS FOR APPEAL

Grounds for appeal provided by the applicant are listed below in bold italics; Staff's response follows each ground in regular font.

- The planning Commission erred in finding that the non-conforming residence did not lawfully exist on the property as of March 31, 1980, the date before the restrictive zoning took effect.
 - There was uncontroverted, detailed evidence that the residence existing on the property on March 31, 1980.
 - No County land use approval was necessary to site a residence on the property on March 31, 1980.

Staff Response: The Planning Commission decision and staff report recognize the <u>existence</u> and continued use of the development as described by the applicant and does not contest that the dwelling was constructed in 1979. The Planning Commission decision and staff report also explain that at the time of construction, the Wasco County Zoning Ordinance in effect listed single family dwellings and accessory buildings as uses that would have been allowed <u>with a land use permit</u>. In 1979, the use would have also required permits and approvals from Building Codes and Environmental Health. There are no records of the required permits being obtained from the Planning Department, the Building Department or the Health Department for the dwelling, subsequent structural additions or a water source or a septic tank - all of which would have required permits and a land use compatibility statement. The LUCS document requires a signature from the Planning Department. It is Department practice to retain a copy of the LUCS at the Planning Department regardless of whether other departments retain their copies or originals.

Staff concludes that at the time of construction, the use was a lawful use that required land use permits, building permits and septic approval to be lawfully approved and established. Although the dwelling existed at the time the use was lawful, it was not established in a manner that complied with the applicable rules and regulations at the time of development.

The Planning Commission erred by not relying on ORS 215.130(11), which creates a
presumption that a non-conforming use in existence for the past 20 years where lawfully
created, could be used to determine that the use was lawfully established.

Staff Response: Staff consulted County Counsel in its review of ORS 215.130 and reviewed the findings of *Aguilar v. Washington County* in which the Oregon Court of Appeals, which is binding precedent, provides clarification of the use of ORS 215.130. This case states:

"Moreover, nothing in subsection (11) prohibits a county from requiring proof of the lawfulness of the use at the time a zoning ordinance or regulation went into effect. Subsection (11) is a prohibition; it states what a county may not require of an applicant for verification of a nonconforming use. In that respect, the statute provides that a county may not require proof of the "existence, continuity, nature and extent of the use" for a use more than 20 years before the date of application. It says nothing about the lawfulness of the use at the time of a zoning regulations' effective date. That suggests that the legislature did not intend to prohibit a county from requiring proof of the lawfulness of the use." (Aguilar v. Washington County, 2005, emphasis added).

ATTACHMENT G - RESPONSE TO GROUNDS FOR APPEAL

 The Planning Commission erred by relying on the lack of building permit or septic permit when these permits were not required in order to obtain land use approval. These permits relate to building code and environmental quality issues.

Staff Response: This is not accurate. These permits are part of a standard land use compatibility statement and were required in 1979 for a dwelling. As standard practice, the Planning Department retains copies of

 The County does not have a practice of retaining building permits for two years and therefore, the lack of County-issued building permit, from over 25 years ago, does not direct a conclusion that no permit was obtained.

Staff Response: This is not accurate. The County retains copies of all files and documents related to the use, development, or partition of properties in Wasco County – including land use compatibility statements required by the Health Department.

 In sum, the Planning Commission denied this application because there was no evidence of building and septic permits when the existence of these permits is not necessary to show that the residential use of the property was lawfully established. In other words, the Planning Commission imposed an obligation that was not required by either state law or the local code.

Staff Response: In 1979, when the dwelling was constructed, and in 1980 and 1981 when additions and expansions of the home occurred, permits from the Planning Department, Building Codes and Public Health were required prior to construction. Furthermore, at the Planning Commission hearing, the previous landowner testified that permits were not obtained prior to construction. The Wasco County Land Use and Development Ordinance "verification of a nonconforming use" chapter requires us to first provide non-discretionary evidence that a development was lawfully constructed; if that is not possible, then discretionary evidence such as photos to verify existence may be used. In this case we have non-discretionary evidence confirming that the structures were not legally placed and cannot use discretionary evidence to approve an admitted violation.

• The result is particularly unfair because the applicant cannot re-build and use his property in a way that he, and the previous owners of his property, had for over 25 years, when he was in no way responsible for the fire that resulted in the loss of his home.

Staff Response: At the Planning Commission hearing, Mr. Garofoli responded to a Commissioner that he did not confirm past permits for the existing development upon purchase of the property. At all relevant times since 1979, it is the responsibility of a prospective buyer to research the legal creation of properties and existing development, as well as the seller to disclose such information. The Planning Commission did not impose a new restriction. Instead, it merely implemented the land use ordinances already and consistently in effect. Because the County code compliance program is a complaint driven, and no complaints were ever received about this development, staff did not have had an opportunity to resolve this case sooner.

WASCO COUNTY PLANNING COMMISSION

July 7, 2015
Meeting begins at 3:00 p.m.
Mosier Terrace (Senior Center)
500 E 2nd Street
Mosier, Oregon 97040

CALL TO ORDER

I. ROLL CALL

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Russell Hargrave Vicki Ashley Kenneth McBain Taner Elliott Mike Davis Brad DeHart Andrew Myers

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Jeff Handley

WASCO COUNTY PLANNING OFFICE STAFF PRESENT

Angie Brewer, Planning Director Dawn Baird, Associate Planner Patricia Neighbor, Associate Planner Brenda Jenkins, Planning Coordinator

II. <u>PUBLIC COMMENT:</u> Maximum 15 minutes, *limited to items not being heard or discussed elsewhere on the agenda.*

None.

III. APPROVAL OF PAST MINUTES:

- April 7, 2015
- May 5, 2015
- June 2, 2015

Vice Chair Ashley moved to approve the April 7, 2015, May 5, 2015, and June 2, 2015 minutes as submitted. Commissioner Elliott seconded. Chair Hargrave called for discussion; there was none. Chair Hargrave called for the vote. The motion was unanimously approved 6 to 0, 1 abstained (Commissioner McBain) 1 absent (Commissioner Handley).

A listing of the vote, as required by Oregon Revised Statute 192.650.c. is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - absent
Commissioner Elliott – yes
Commissioner DeHart – yes
Commissioner McBain – abstain
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

IV. QUASI JUDICIAL HEARING:

File PLANCU-14-09-0003 Garofoli

Request for a verification of nonconforming use determination for a dwelling (used as recreational cabin) that burned down in a wildfire, and a request to replace the lost dwelling with a new dwelling and accessory building. The property is in the Exclusive Farm Use Zone and the Sensitive Wildlife Habitat Overlay Zone (EPD-8, Big Game Winter Range). The property is located on an access road approximately 220' south of Obrist Road, approximately 3.1 miles west of Dutch Flat Road, approximately 10 miles southwest of The Dalles.

Chair Hargrave opened the hearing as follows:

We will now open the public hearing on agenda item PLANCU-14-09-0003, a request by Joe Garofoli for the verification of a nonconforming use and replacement of a recreational cabin and two sheds lost to a wildfire in 2013.

The application includes two requests:

- 1) Verification of a nonconforming use
- 2) Replacement of a nonconforming use

The 13.54 acre property is described as Township 1, South; Range 12, East; Section 18; Tax Lot 402; also known as Wasco County Assessor Account #16341

The criteria for approval of the applications include: Review Authority contained in Chapter 2, Section 2.060.B.14. ("matters which the Director elects not to review"), and Chapter 13 (*Nonconforming Uses, Buildings and Lots*) of the Wasco County Land Use and Development Ordinance.

The procedure I would like to follow is:

- a. Disclosure of Interest, Ex Parte Contact or Potential Conflicts
- b. Reading of the Rules of Evidence
- c. Planning department will present their report
- d. Those who wish to speak in favor of the proposal
- e. Those who wish to speak in opposition of the proposal
- f. Rebuttal
- g. Close the hearing and record and begin deliberation
- h. If enough information is available the Planning Commission will make a decision today.

Chair Hargrave asked if any Commission member wished to disclose any ex-parte contact; There were none.

Chair Hargrave asked if any Commission member had visited the location for a site visit; There were none.

Chair Hargrave asked if any Commission member wished to disqualify themselves for any personal or financial interest in this matter? There were none.

Chair Hargrave asked if any member of the audience wished to challenge the right of any Commission member to hear this matter? There were none.

Chair Hargrave asked if any member of the audience wished to question the jurisdiction of this body to act on behalf of Wasco County in this matter? There were none.

Chair Hargrave explained the Rules of Evidence which will be followed.

Chair Hargrave called for the staff to present their report and recommendation.

Angie Brewer, Planning Director presented the following (summarized): Today's hearing is a quasi-judicial hearing for the verification of a nonconforming use, and the replacement of that use. In 2013, Mr. Garofoli's recreational cabin and storage sheds were destroyed in the Government Flats Complex Wildfire. Upon its loss, Mr. Garofoli and his consultants began working with staff on procedural options for the replacement of the destroyed development.

Staff and the consultants conducted research and found although the property is a legal parcel, no planning, building or septic permits could be located for the development that was lost. The property is 13.71 acres in size, is zone A-1 (160) Exclusive Farm Use and is located in the Big Game Winter Range sensitive wildlife habitat overlay. Within one-year of the disaster, an application was submitted for the verification of a nonconforming use and the replacement of that use.

Staff's review, report and recommendation are limited to the nonconforming use chapter – Chapter 13, Section 050 – Verification of a nonconforming use and Section 060 – Restoration or alteration of a nonconforming use and Chapter 3 – alteration, restoration, relocation or replacement of a lawfully established dwelling.

Please refer to staff's analysis for details; I plan to provide a high level overview. The nonconforming use verification and restoration chapter is intentionally sequenced. We must first verify the nonconforming use was lawfully established as defined in Section 050 before restoration or alteration can be approved through Section 060. Lawfully established means, lawfully established on or before the effective date of applicable ordinances. No unlawful use of the property existing at the time of the effective date of the ordinance can be deemed a nonconforming use.

There are two types of verification: Type 1 is verified by non-discretionary evidence, including but not limited to zoning approval or Assessor's records to confirm the date of establishment (before rules applied). Type 2 is for instances lacking non-discretionary

evidence (e.g. we don't know when it was constructed, but know it is pre-LUDO; most evidence is aimed at providing a date).

According to information provided by the applicant, the dwelling was constructed in 1979 and modified multiple times between 1979 and 1982. Assessor's records verify the development existed in 1982. In 1979, the property was zoned A-3, and would have required a land use review for a dwelling. Similarly, a sign off from the Building and Health Departments would have been required for construction, water, power and sanitation. Because non-discretionary evidence should exist for development constructed at a time when permits were required, Type 1 process is most applicable. Based on the information provided to staff, the proposed verification is inconsistent with the requirements of this process.

Pursuing Verification Process Type 2, the applicant provided information to demonstrating existence and continued use for more than 20 years. The applicant contends that ORS 215.130 prohibits a county from requiring an applicant to prove the existence, continuity, or nature and extent of the use for more than 20 years immediately preceding the application. Staff does not argue that the dwelling has existed and been used continuously for the last 20 years, however, we do not feel that ORS 215.130 prohibits a county from confirming non-discretionary evidence of lawful establishment when the date of establishment is known. In summary, the use could not be verified as a nonconforming use that was lawfully established at the time of construction.

Although it could not be verified, Staff's analysis does include findings for replacement, under section 060 for restoration and alteration. Restoration restores the original development. This section requires the size of the replacement development to be the same and in the same general location. Alteration allows replacement in a new location and a new size.

"FINDING: The original cabin was a 1,200 square foot, single-story dwelling (footprint of 24'x50'). The proposed replacement dwelling is 1,856 square foot, single-story dwelling (footprint of 32'x58'). As proposed, the replacement building would increase the floor area, and therefore must be considered an alteration. The applicant states that the replacement accessory buildings will replace the functioning accessory buildings at the time of the fire, including a 192 square foot, single-story storage shed (footprint of 12'x16') and a 144 square foot, single-story wood shed (footprint of 12'x12'). No information was provided about the size of the previously existing accessory buildings.

The request is for alteration, and requires compliance with 7 criteria to ensure continued lawful existence, compatibility with the surrounding neighborhood and landscape, consistency with health and safety regulations and other resource protection requirements. Again, this comes back to lawful establishment. Because the use was not lawfully established at the time of construction, it cannot be altered or restored through Section 060.

Chapter 3 – Basic provisions for the A-1 (160) EFU zone contains a subject to standards review process for the discretionary alteration, restoration, relocation or replacement of a lawfully established dwelling. Again, because the lawful existence could not be established, the use cannot be verified as nonconforming.

<u>CONCLUSARY FINDING:</u> Based on the information available at the time of Staff's review, staff concludes the dwelling and accessory buildings destroyed by wildfire in 2013 are not lawfully established nonconforming uses and cannot be replaced or repaired through Chapter 13 Nonconforming Uses, Buildings and Lots. Please see Attachment C for staff's recommendation and Planning Commission options." (Source: PLANCU-14-09-0003 staff report)

Director Brewer read the following Planning Commission decision options:

- Deny the (1) non-conforming use determination and deny the (2) replacement development; or
- B. Approve the (1) non-conforming use determination and approve the (2) replacement development with conditions of approval recommended by the Planning Department; or
- C. Approve the (1) non-conforming use determination and deny the (2) replacement development with conditions of approval recommended by the Planning Department; or
- D. Deny the (1) non-conforming use determination and approve the (2) replacement development
- E. Any combination of options (A) through (D) above, with amended conditions of approval; or
- F. If additional information is needed, continue the hearing to a date and time certain to allow the submittal of additional information.

Director Brewer provided a staff recommendation. She said that Staff recommends Option A: Deny requests (1) and (2) on the grounds that the original development was not lawfully established and therefore cannot be **v**erified or replaced through WCLUDO *Chapter 13 Nonconforming Uses, Buildings and Lots.*

Chair Hargrave called for questions from the Commission.

Commissioner Elliott asked Staff how good the record keeping in the Department was, how complete. Associate Planner Baird stated that nothing is 100%, but the Department's records are pretty good. She stated that between the Health Department and the Planning Department, she was 90% sure there would be some record of a permit if one was taken out.

Chair Hargrave asked if the dwelling would have been a permitted use in 1979. **Director Brewer** stated that yes; it would have been an allowed use with a land use permit.

Vice Chair Ashley asked if it was the same land owner now as in 1979. Director Brewer stated that she believed the property had changed hands. Mr. Garofoli confirmed from the audience that he was not the original owner.

Commissioner DeHart asked for clarification on the language used by Director Brewer: "at the time of staff report," and asked if anything had developed since that time. Director Brewer stated that Staff made a recommendation based on the application material. If new information, such as a permit is located in the future, the Planning Department would reconsider the issue.

Chair Hargrave asked if the applicant had been able to provide any discretionary evidence to show the legal status of the use. **Director Brewer** stated that the evidence provided showed the date of placement, and that the use was there and on the tax rolls in 1982. The applicant provided statements from neighbors and deed records, but nothing showing whether or not it was legally placed or lawfully established.

Commissioner DeHart asked for clarification on why the assessor records were not adequate to show legally established use. Director Brewer explained that the assessor records simply showed that the use was on the property and being taxed at that time. It did not show legally established and illegal structures can be taxed.

Commissioner Myers asked for clarification that the county assessor records verify the date of establishment, and the Planning Department is not contesting that date. **Director Brewer** stated that yes, we are not contesting that it was there, just that it was not established legally with the required permits.

Commissioner Davis asked if the applicant could show that it was there since 1974, would that be considered evidence of legal placement. **Associate Planner Baird** stated that it would if they met the criteria that we list as verifiable evidence.

Commissioner McBain asked when the current owner obtained ownership. Mr. Joe Garofoli – the applicant and owner replied from the audience stating that it was in 2007.

Chair Hargrave called for other questions by the Commission.

Commissioner Myers asked if Director Brewer could explain the referenced Oregon Revised Statute and whether it was in conflict with the Wasco County Land Use Development Ordinance (LUDO). Director Brewer stated that the statute was not in conflict with the LUDO. She referred the Commission to Attachment E in the agenda packet. She stated that she believes the statute is for situations where they are unable to identify the date that the use was established. In which case it makes sense to not make the applicant continue going back in time. In this case, we know when it was established, but it was not legally established. She also explained that Staff did outreach with other Oregon Counties to ask how they have dealt with this type of situation in the past and basically we are right in line with the other counties. She reiterated that the statute does not include lawful establishment and that the applicant was unable to provide evidence of lawful establishment as required by the LUDO.

Commissioner Myers asked where she was getting her interpretation. **Director Brewer** stated that she spoke with other counties as well as Wasco County's legal counsel.

Commissioner Myers asked for clarification on whether Staff could require information more than 20 years prior to the application. **Director Brewer** explained the difference between legal use and legal establishment.

Chair Hargrave called for additional questions from the Commission; there was none.

Chair Hargrave called for testimony from applicant.

Mr. Joe Garofoli, the owner and applicant, and Ms. Leslie Ann Hauer, the Applicant's representative were seated at the presenter's table. Ms. Hauer gave a summarized presentation of her document submitted to the Commission (Attachment A). She stated that there was one question before the Commission, was the use lawfully established. She further stated that in planning a use is "an activity". There is no question that the use in this case is the dwelling, she believes the use was lawfully established (see attachment for case law outlined by Ms. Hauer). Ms. Hauer submitted written testimony from Michael Ferguson (see Attachment B). She also stressed that Mr. Garofoli had been waiting well beyond the required 150 days for a decision on his request. She stated that even with the 60 day waiver that Mr. Garofoli signed; the County has surpassed this deadline.

Chair Hargrave called for questions from the Commission.

Chair Hargrave asked for clarification as to whether Ms. Hauer was not stating that the structure was legally placed but that permits are not the relevant criteria, she is saying the relative criteria is that the zone that would allow that use changed in 1980, and that until 1980 that use would have been allowed. Ms. Hauer stated yes and the likelihood is that if they did have permits, then those permits are probably gone. She further explained that their stance is that zoning allowed the use at that time, and that the records are not available to show that they did not have permits.

Chair Hargrave asked if she was arguing that there were permits, but that they have been lost. **Ms. Hauer** stated that she has no idea if they were lost, but that absence of the permits doesn't prove anything.

Vice Chair Ashley asked if lot books or title searches were done at the time the applicant took ownership of the property, would these searches have shown if the dwelling was legally established. Ms. Hauer stated that she wasn't sure if there had been searches, but that she didn't think it was relevant to a land use request. Vice Chair Ashley stated that the legal establishment is relevant. Ms. Hauer stated that holding onto an old building permit is difficult; and reiterated that the absence of the permit does not mean no permit was obtained.

Commissioner McBain asked Ms. Hauer to define the use of this structure. **Ms. Hauer** stated that the use was a dwelling. **Commissioner McBain** stated that it seemed to him the use was more recreational. **Ms. Hauer** stated that since Mr. Garofoli has had the property, the use has been more as a recreational cabin. However her understanding is that a dwelling is a dwelling whether it is recreationally used full time dwelling.

Commissioner DeHart asked if the Assessor records reflect that the structure is a dwelling. **Ms. Hauer** stated that yes; the structure was taxed as a dwelling.

Commissioner McBain asked if there was a realtor involved in the sale of the property. Mr. Garofoli stated that yes, there was a realtor. Commissioner McBain stated that real estate law requires a disclosure statement and in that statement there is a question as to whether or not there has been any work or improvements without a permit. He then asked if there had been a disclosure statement regarding the structure. Mr. Garofoli stated that he didn't remember reading any disclosure statement or being advised in any way on the structure. He knew it was an established building and had been being assessed taxes so he had assumed that everything was legal and ok.

Chair Hargrave called for additional questions from the Commission.

Commissioner Myers asked Ms. Hauer for clarification on the way she interprets 215.130(10)(a). **Ms. Hauer** referred to the Rogue Advocates case stating that a building permit is not essential to providing the use.

Vice Chair Ashley asked if there were water and sewer on the property now. Mr. Garofoli stated that he believes there is a septic but no water or electricity.

Commissioner DeHart asked why the original application was to replace the dwelling in kind, but now they are asking to update the request with an expansion and to reorient the dwelling. Ms. Hauer stated that the request was being made now based on the advice of past Planning Director, John Roberts, to be more efficient and to avoid an additional application fee. Mr. Garofoli stated that he is seeking an expansion to better accommodate his growing family.

Chair Hargrave asked if the rules require a legally placed dwelling or a legal use. Director Brewer stated that the rule requires that the use be lawfully established. She further explained that if you were to apply for the use (dwelling) in 1979, it would have required a permit. Chair Hargrave asked for clarification that the rule doesn't say a lawful use, but it says that the use has to be lawfully established. Ms. Hauer responded by stating that case law says that lawfully established means it was there when the law changed to make it nonconforming. She also stated that there is no question that the dwelling was there when the law changed. Director Brewer clarified that the law changed on September 5, 1974. Chair Hargrave stated that the law changed in 1974, which would have allowed the use but the law changed again in 1980 at which point the use became nonconforming.

Associate Planner Baird clarified that in 1980 the zone changed from A3 to A1. Chair Hargrave stated that he wanted to be clear on his understanding because "lawful use" has one feel and "legally established dwelling" has another.

Chair Hargrave called for additional questions from the Commission; there was none.

Chair Hargrave called for additional testimony in support.

Michael Ferguson provided testimony in support of applicant. **Mr. Ferguson** stated that he was contacted by Joe (Mr. Garofoli) to find proof of the residence being established. He further stated that his father bought the property in approximately 1977. Mr. Ferguson's father moved a trailer onto the property and lived there until 1986. He further testified that as late as 1982 the property still used an outhouse, no septic was on the property while he lived there growing up. He stated that he wasn't sure if they had any permits.

Chair Hargrave called for questions from the Commission; there was none.

Chair Hargrave called for other testimony in support.

Mr. Garofoli provided additional testimony by asking Staff if Wasco County had ever made a decision under ORS 215.130 in the past. **Director Brewer** stated that this was the County's first experience with this State rule. **Mr. Garofoli** asked if she had consulted an attorney. **Director Brewer** stated that she had consulted with Wasco County's legal counsel and reached out to other Oregon counties for their interpretations.

Chair Hargrave called for other testimony in support; there was none.

Chair Hargrave called for testimony in opposition; there was none.

Chair Hargrave closed the hearing for deliberation

Director Brewer outlined the planning commission's options:

- A. Deny the (1) non-conforming use determination and deny the (2) replacement development; or
- B. Approve the (1) non-conforming use determination and approve the (2) replacement development with conditions of approval recommended by the Planning Department; or
- C. Approve the (1) non-conforming use determination and deny the (2) replacement development with conditions of approval recommended by the Planning Department; or
- D. Deny the (1) non-conforming use determination and approve the (2) replacement development
- E. Any combination of options (A) through (D) above, with amended conditions of approval; or
- F. If additional information is needed, continue the hearing to a date and time certain to allow the submittal of additional information.

Director Brewer stated that Staff recommends denial of both requests.

Commissioner Myers stated that he still has questions and would like to spend some time reading ORS 215.130 as well as the case law submitted by Ms. Hauer.

Chair Hargrave stated that he would like to know where Commissioner Myers is based on what the Commission has before them. **Commissioner Myers** said there was very little analysis in the staff report on how this statute applies to this situation he would like to understand it before approving or denying it.

Chair Hargrave asked for Commissioner Myers thoughts on lawful use versus legally placed structure. Commissioner Myers stated that it was a question as to whether or not

it was lawfully placed. **Chair Hargrave** confirmed that Commissioner Myers was leaning towards the dwelling needed to be legally placed. **Commissioner Myers** stated that yes, but it seemed to him that the applicant is stating that due to statute the application should be approved. **Chair Hargrave** stated that the distinction here is that the question is was the use lawfully established at the time it became nonconforming.

Commissioner Elliott asked for clarification stating that the case law states that the county "may not require", he asked if our county rules state "may" or "shall" require. Director Brewer stated that our county does not have a time limit attached. It is either discretionary or nondiscretionary. And, if there was an ordinance in effect at the time it required a review, then that should be nondiscretionary.

Chair Hargrave stated that in his mind it is not a legally placed structure, and no one is advocating that it is a legally placed structure.

Vice Chair Ashley clarified that in 1979 the parcel would have been zoned A3. Associate Planner Baird stated that was correct. Vice Chair Ashley asked if it would have needed a permit then. Associate Planner Baird stated that yes, a single family dwelling would have been approved with a conditional use permit. Commissioner Davis stated that the Commission needs to take into consideration that this will be a policy for similar situations in the county.

There was discussion on how prevalent this type of situation is in the county. The Commission consensus was that this was a unique situation due to the change of zoning but that there were many instances where illegal development has existing for more than 20 years.

Commissioner Elliott asked for clarification on the language that a change of ownership or occupancy shall be permitted. Vice Chair Ashley stated that the language just meant you could sell it. Commissioner Elliott stated that if it were sold then someone else could occupy it legally. Chair Hargrave replied yes, they could occupy it legally, if it were legally established.

Commissioner McBain moved to deny both requests.

Chair Hargrave suggested amending the motion for the individual requests and to make two motions.

Commission McBain amended his motion, moving to deny the request for verification of a nonconforming use. Commissioner Davis seconded. Chair Hargrave called for discussion; there was none. Chair Hargrave called for the vote. The motion was approved 4 to 3, 1 absent (Commissioner Handley).

A listing of the vote, as required by Oregon Revised Statutes 192.650.c. is as follows:

Chair Hargrave – yes Vice-Chair Ashley – yes Commissioner Myers – no Commissioner Handley - absent

Commissioner Elliott – no Commissioner DeHart – no Commissioner McBain – yes Alternate Commissioner Davis – yes Alternate Position #2 - Vacant

Vice Chair Ashley moved to deny the request for replacement development in coordination with a nonconforming use. Commissioner Davis seconded. Chair Hargrave called for discussion; there was none. Chair Hargrave called for the vote. The motion was approved 4 to 3, 1 absent (Commissioner Handley).

A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – no
Commissioner Handley - absent
Commissioner Elliott – no
Commissioner DeHart – no
Commissioner McBain – yes
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

V. <u>Long-Range Planning Project Work Session:</u>

Scott Edelman, Central Oregon Regional Representative from the Community Services Division of the Oregon Department of Land Conservation and Development, presented an overview of State process and State level assistance options available for the plan update project. (See attachments B-G)

VI. <u>OPTIONAL: DISCUSSION OF OTHER BUSINESS/PLANNING DIRECTOR COMMENTS:</u>
There was none.

Adjourned 5:37	
Russell Hargrave, Chair Wasco County Planning Commission	Angle Brewer, Planning Director Wasco County Planning & Development



ADDITIONAL DISCUSSION FOR APPLICATION FOR CONFIRMATION OF NON-CONFORMING BUILDING & USE

Applicant/Owner:

Joseph Garofoli

Mailing Address:

4408 NE 77th Avenue Portland, OR 97218-3924 (503) 288 2569 Home (503) 252 0974 Work

Site Address:

5320 Orbist Grade Road Map: 1S 12E 18 402

Applicant's Representatives:

Leslie Ann Hauer 6100 Collins Road

West Richland, WA 99353

(509) 967-2074 (509) 539-9992

Carrie Richter

Garvey Schubert Barer

121 SW Morrison Street, 11th floor

Portland, Oregon 97204

(503) 228-3939

Comprehensive Plan/

Zoning

Current zoning A-1 Historic zoning A-3

Background

Mr. Garofoli submitted an application for verification of non-conforming use and restoration of a non-conforming use following its destruction by forest fire prior to the September 8, 2014 deadline. Subsequently, Mr. Garofoli requested a stay in processing "completeness" in order to submit additional information. In November 2014, Mr. Garofoli submitted a request to alter the non-conforming use by changing the orientation of the structure and to increase the size of the structure.

In the staff report, staff suggests that Mr. Garofoli could have replaced this dwelling by getting a new land use approval as either a non-farm dwelling or as a lot-of-record dwelling. This is the first time that staff has suggested there may be another path for the applicant to recover what he has lost through no fault of his own. Further, it is misleading to suggest that either of these alternative paths are assured. Qualifying as a non-farm dwelling under the county's current standards requires a showing that the land is "generally unsuitable" for farming. Although this property has never been farmed, additional research and potentially expert testimony would be necessary to establish this was this case, which could come at a significant cost when the result is not assured. WCZO 3.210(J). To qualify for a lot of record dwelling, the owner must have owned the property since before January 1, 1985. The applicant acquired the property in July, 2007 and would not qualify for a lot-of-record dwelling.

Summary of Facts

The cabin previously located at 5320 Orbist Road was destroyed by the 2013 Government Flats Complex fire.

Testimony of neighbors was provided with the application, demonstrating that the residential structure had been on the property prior to 1993, and most likely was originally placed on the property in 1978 or 1979 following the creation of the 13.50-acre lot.

In addition to the testimony considered by staff, the applicant has been able to contact Michael Ferguson, the son of Ernest and Linda Ferguson, who purchased the property in 1978. Mr. Ferguson testified that he lived in a manufactured home that was located on the property in 1978, with a new bedroom addition constructed shortly thereafter.

The County's record retention policy for building permits is two years. As a result, the County has no building or septic permits on file relating to the siting of the manufactured home or its expansion shortly thereafter.

Summary of Requirements

The County's Code sets out requirements for verification, restoration, and alteration of a nonconforming use in Chapter 13. Specifically, the following sections apply to this application:

Chapter 13 Nonconforming Uses, Buildings and Lots 13.060 Restoration or Alteration of Nonconforming Use

13.060.A.3 – The replacement dwelling will be located in the same area, with a small change in orientation from the original footprint. Setbacks will generally be the same and far exceed minimum requirements for the zoning district.

13.060.C.Alteration of a nonconforming use....

This section requires that an alteration will "result in no greater adverse impact on the neighborhood or shall result in less of an adverse impact on the neighborhood..."

13.060.C.1.a Residential Uses Only

- (1) The cabin use was shown to be established prior to 1993, with evidence indicating it was on the site at least from 1982. No conditions or limitations associated with its creation have been identified.
- (2) The proposed replacement dwelling will be similar in appearance to the previous cabin and in any case will be in the same location (with proposed minor change in orientation).
- (3) The use of the replacement dwelling will be identical to the previous cabin.
- (4) The proposed addition to the cabin area will not cause a non-conforming condition with respect to setbacks, which remain far greater than required for the zone.
- (5) Setbacks for the original dwelling and the replacement dwelling greatly exceed minimum requirements.
- (6) The applicant expects that any required standards pertaining to health, safety, fire protection, and so on, will be satisfied when plans are submitted for building permits.
- (7) No factors impacting the character or needs of the neighborhood have been identified. The replacement dwelling will be largely invisible from Obrist Road and adjacent properties.

In addition to the County Code, the Oregon Revised Statutes ("ORS") 215.130 provide a limitation to the amount of information (subsection 11) that a County may demand of an applicant requesting a continuation or alteration of a non-conforming use (subsection 5):

(5) The lawful use of any building, structure or land at the time of the enactment or amendment of any zoning ordinance or regulation may be continued. Alteration of any such use may be permitted subject to subsection (9) of this section. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. Except as provided in ORS 215.215, a county shall not place conditions upon the continuation or alteration of a use described under this subsection when necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structures associated with the use, A change of ownership or occupancy shall be permitted.

(11) For purposes of verifying a use under subsection (5) of this section, a county may not require an applicant for verification to prove the existence, continuity, nature and extent of the use for a period exceeding 20 years immediately preceding the date of application. (Emphasis added.)

Further, ORS 215.215 provides that in cases where nonfarm dwellings are destroyed by fire, the county zone regulations may allow re-establishment, notwithstanding other restrictions that may exist in state law, particularly ORS 215.130. It provides:

Notwithstanding ORS 215.130(6), if a nonfarm use exists in an exclusive farm use zone and is unintentionally destroyed by fire, other casualty or natural disaster, the county may allow by its zoning regulations such use to be reestablished to its previous nature and extent, but the reestablishment shall meet all other building, plumbing, sanitation and other codes, ordinance and permit requirements.

Analysis

The Dwelling Existed on the Date that the Restrictive Zoning Took Effect

County zoning established the "A-1" (Exclusive Farm Use) Zone on April 1, 1980, requiring a minimum of 80 acres for new lots. The subject property is smaller than 80 lots and as a result, a dwelling may not be constructed unless the structure was in existence on or before March 31, 1980. As long as the structure was in existence before this date, the County need not establish exactly when the structure was established. *Aguilar v. Washington County*, 201 Or App 640, 645-50, 120 P3d 514 (2005). The evidence that a dwelling existed on March 31, 1980 includes testimony that a manufactured home was placed in the property in 1979. This is conclusive evidence that the home was in "existence" before March 31, 1980.

Further, Mr. Garofoli has provided evidence that the cabin existed on the Obrist Road property for more than 20 years, satisfying the standard in ORS 215.130(11). This presumption coupled with the uncontroverted oral testimony of the continuous existence of the structure is sufficient to establish that the structure was lawfully established when the zoning took effect. This evidence is sufficient to satisfy the County's code coupled with state law authority for establishment of this nonfarm use under ORS 215.215.

In a recent case, *Rogue Advocates vs. Jackson County* (LUBA Nos. 2013-102/103), LUBA faced a similar non-conforming use establishment issue as it related to the establishment of a "batch plant," a facility used for mixing materials such as asphalt or concrete, where the restrictive zoning took effect in 1973. The County relied on testimony from the plant owner, Howard DeYoung to conclude that a batch plant operated on the property from 1963 to 1974. Notwithstanding the lack of any building permits or DEQ-required air quality permits on file, LUBA affirmed the County's approach finding that such oral testimony was reasonable and substantial evidence sufficient to prove that the use was in existence and affirmed the county's finding that it was a lawful non-conforming use.

Lack of a Building or Septic Permit is Irrelevant

According to County staff, there are no permits in the files for any aspect of the establishment of the structure—no building permit or septic system approval. First, the County's only obligation with respect to Aguilar and the local regulations, is to show that the structure existed on March 31, 1980, the date when the restrictive zoning took effect, and not the date when it was first established. Second, building permits in the past were only kept for two years and as a result no building permit approvals would remain. Given the County's short record retention practices, the lack of records in this case only suggests that the County likely destroyed any records. It does not suggest that the building was constructed after 1980 and in fact, provides no guidance as to when the building was constructed.

Again, in *Rogue Advocates*, LUBA considered whether the lack of evidence of required air quality permits for the batch plant established that the use was not "lawful." LUBA explained that the obligations imposed by ORS 215.130 are directed at whether the required land use approvals were obtained. LUBA explained:

In our view, a use is lawfully established for purposes of verifying that use as a nonconforming use under ORS 215.I30(5) and the county's regulations if, at the time restrictive zoning is applied, the use is established and either required no local land use approvals under a comprehensive plan or land use regulations or received all required local land use approvals that were required under the applicable comprehensive plan and land use regulations. Under ORS 215.130(5) through (11), verification and other elements of nonconforming uses are described with reference to local zoning ordinances and land use regulations.

Building and septic permit approvals are not required zoning or land use approvals and the failure to obtain such permits does not prove that the dwelling was not lawfully established or that the structure was constructed after April 1, 1980. Lack of records is not proof, particularly when the lack of records, given the County's practice of recycling such records, does not contradict the oral testimony indicating that the structure was established before March 31, 1980.

Finally, ORS 215.215 appears to allow reestablishment of a nonfarm use, including nonfarm dwellings, if the county code allows for such establishment, notwithstanding the requirements of ORS 215.130(5) through (11) and the cases interpreting them, the basis for staff's recommendation of denial in this case. The County's code requires a finding that the "non-conforming use" is "lawfully established." Again, this is directed at the County's review of the land use and not whether other building permit or septic permits may have been required.

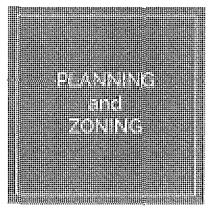
CONCLUSION

Mr. Garofoli has provided uncontroverted and detailed evidence that the structure, along with the one bedroom addition was "lawfully established." A use is presumed to be "lawfully established" if it existed before land use review was required and it exceeds the 20-year limit of ORS 213.130(11). No land use approval was required in order to locate a non-farm dwelling in 1979, when the dwelling was established. As a result, the structure was "lawfully established" with regard to land use. The lack of building or permits unrelated to land use review does not prove that that the dwelling was unlawfully established. More importantly, the question of whether a structure lawfully exists is restricted to land use permitting and need not include any consideration of other building code or DEQ issued permits that may or may not have also been required.

Mr. Garofoli requests that the Planning Commission accept the testimony that has been provided, and allow him to replace his cabin with a slightly re-oriented residence at its previous location and allow the alteration/enlargement as proposed. Testimony has been provided that the building re-orientation and enlargement can be accomplished with minimal impact to the site and surrounding properties. Reconstruction of this dwelling will require the applicant to obtain a building permit as well as any necessary septic or Health Department issued permits.

For these reasons, Mr. Garofoli asks that the Planning Commission approve his application.





BCC Land Use Hearings

Comprehensive Plan

Design Review

Floodplain Information

Flood Insurance

Flood Terminology

Comprehensive Plan

- · Chapter 1 Introduction
- · Chapter 2 Citizen Involvement
- · Chapter 3 Natural Resources and Energy
- Chapter 4 Land Use
- Chapter 5 Transportation System Plan
- · Chapter 6 Housing
- · Chapter 7 Public Facilities and Services
- · Chapter 8 Economics
- · Chapter 9 Open Space, Parks and Historic Sites
- · Chapter 10 Community Plans and Design Plans
- Chapter 11 The Planning Process
- · Appendix A Maps and Documents Adopted by Reference
- · Appendix B Summary of Supporting Documents

ATTACHMENT C

Deschutes County Comprehensive Plan





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Preamble, Vision and Use of this Plan

Preamble

The Deschutes County Comprehensive Plan is a statement of issues, goals and policies meant to guide the future of land use in this County. This Comprehensive Plan is intended to recognize the expectations and rights of property owners and the community as a whole.

Community Vision

As a result of community outreach, a vision emerged that defines what people care about in Deschutes County.

The high quality of life in Deschutes County stems from:

- The beauty, bounty and richness of a healthy natural environment
- A community of caring people
- A strong and diverse economy
- Access to a wide variety of outdoor recreational opportunities
- The rural character of the region
- Maintaining a balance between property rights and community interests



Use of this Plan

The Comprehensive Plan is a tool for addressing changing conditions, markets and technologies. It can be used in multiple ways, including:

- To strengthen communication with the public.
- To guide public decisions on land use policy when developing land use codes, such as zoning or land divisions.
- As a basis for the development of public programs and budgets.
- As a basis for the measurement and evaluation of changes in the physical, social, environmental or economic makeup of the County. Modifications of the Plan itself may result from this process.
- To promote inter-government coordination, collaboration and partnerships.

This Plan does not prioritize one goal or policy over another. Implementation of this plan requires flexibility because the weight given to the goals and policies will vary based on the issue being addressed.

The Plan is not intended to be used to evaluate specific development projects. Instead, the Plan is a 20-year blueprint to guide growth and development

ATTACHMENT D

A Summary of Oregon's Statewide Planning Goals

- 1. CITIZEN INVOLVEMENT Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." It requires each city and county to have a citizen involvement program containing six components specified in the goal. It also requires local governments to have a committee for citizen involvement (CCI) to monitor and encourage public participation in planning.
- 2. LAND USE PLANNING Goal 2 outlines the basic procedures of Oregon's statewide planning program. It says that land use decisions are to be made in accordance with a comprehensive plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted. It requires that plans be based on "factual information"; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed. Goal 2 also contains standards for taking exceptions to statewide goals. An exception may be taken when a statewide goal cannot or should not be applied to a particular area or situation.
- 3. AGRICULTURAL LANDS Goal 3 defines "agricultural lands." It then requires counties to inventory such lands and to "preserve and maintain" them through farm zoning. Details on the uses allowed in farm zones are found in ORS Chapter 215 and in Oregon Administrative Rules, Chapter 660, Division 33.

- FOREST LANDS This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."
- 5. OPEN SPACES, SCENIC AND HISTORIC AREAS AND NATURAL RESOURCES Goal 5 covers more than a dozen natural and cultural resources such as wildlife habitats and wetlands. It establishes a process for each resource to be inventoried and evaluated. If a resource or site is found to be significant, a local government has three policy choices: preserve the resource, allow proposed uses that conflict with it, or strike some sort of a balance between the resource and the uses that would conflict with it.
- 6. AIR, WATER AND LAND

 RESOURCES QUALITY This goal
 requires local comprehensive plans and
 implementing measures to be consistent
 with state and federal regulations on
 matters such as groundwater pollution.
- 7. AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS Goal 7 deals with development in places subject to natural hazards such as floods or landslides. It requires that jurisdictions apply "appropriate safeguards" (floodplain zoning, for example) when planning for development there.
- 8. **RECREATION NEEDS** This goal calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. It also sets forth detailed

- standards for expedited siting of destination resorts.
- 9. ECONOMY OF THE STATE Goal 9 calls for diversification and improvement of the economy. It asks communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.
- 10. HOUSING This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. It requires each city to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.
- 11. PUBLIC FACILITIES AND

 SERVICES Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The goal's central concept is that public services should to be planned in accordance with a community's needs and capacities rather than be forced to respond to development as it occurs.
- 12. TRANSPORTATION The goal aims to provide "a safe, convenient and economic transportation system." It asks for communities to address the needs of the "transportation disadvantaged."
- 13. ENERGY Goal 13 declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."

- 14. URBANIZATION This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an "urban growth boundary" (UGB) to "identify and separate urbanizable land from rural land." It specifies seven factors that must be considered in drawing up a UGB. It also lists four criteria to be applied when undeveloped land within a UGB is to be converted to urban uses.
- 15. WILLAMETTE GREENWAY Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.
- 16. ESTUARINE RESOURCES This goal requires local governments to classify Oregon's 22 major estuaries in four categories:, natural, conservation, shallow-draft development, and deep-draft development. It then describes types of land uses and activities that are permissible in those "management units."
- 17. COASTAL SHORELANDS The goal defines a planning area bounded by the ocean beaches on the west and the coast highway (State Route 101) on the east. It specifies how certain types of land and resources there are to be managed: major marshes, for example, are to be protected. Sites best suited for unique coastal land uses (port facilities, for example) are reserved for "water-dependent" or "water related" uses.
- 18. BEACHES AND DUNES Goal 18 sets planning standards for development on various types of dunes. It prohibits residential development on beaches and active foredunes, but allows some other

types of development if they meet key criteria. The goal also deals with dune grading, groundwater drawdown in dunal aquifers, and the breaching of foredunes.

19. *OCEAN RESOURCES* Goal 19 aims "to conserve the long-term values, benefits, and natural resources of the

nearshore ocean and the continental shelf." It deals with matters such as dumping of dredge spoils and discharging of waste products into the open sea. Goal 19's main requirements are for state agencies rather than cities and counties.

ATTACHMENT E

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INTRODUCTION

Wasco County citizens are fortunate to live in an area with abundant natural resources which form the basis of the viable economic system. However, poorly considered land use decisions leading to a disorderly and uneconomic land use pattern can threaten this way of life. We must consider land a resource which must be managed, and not merely a commodity which may be sold and purchased. Once land has been committed to a particular use, it is usually physically impossible, or economically impractical, to reclaim it. Therefore, all options must be carefully considered prior to a land use decision. This is the purpose of planning.

Scope of the Plan

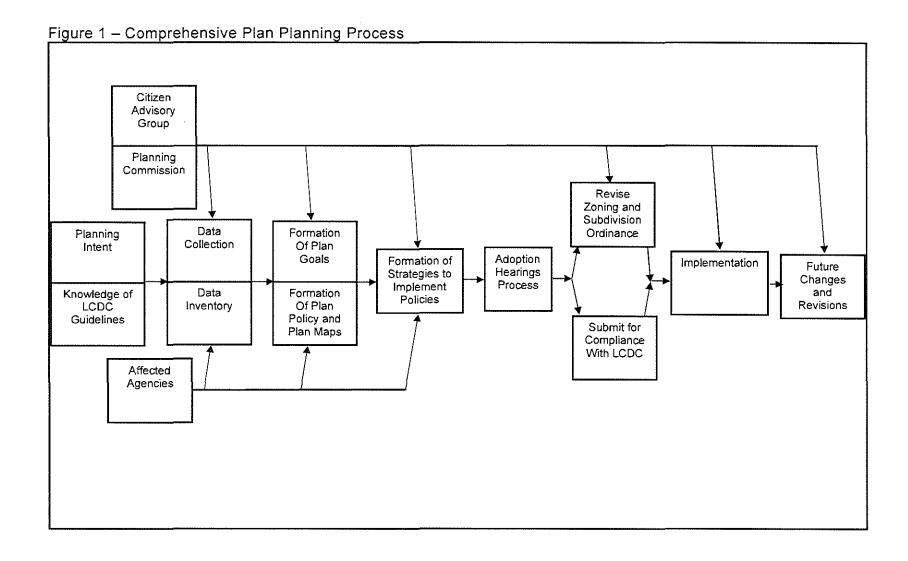
In the effort to achieve a viable citizen involvement program at the inception of the planning process in Wasco County, the County was divided into seventeen planning units; each unit representing a specific geographic area. Changes in staff personnel prompted the reformation of the seventeen units into five units, known as the Western, Eastern, Central, Southern, and The Dalles Urban Units. Plans for the Western, Eastern, Central and Southern Units were adopted by the County Court in January of 1980 and taken to the Land Conservation and Development Commission for acknowledgement. Due to an excess of repetitive information and the difficulties presented in correlating, reviewing, and utilizing four separate county plans, it was decided, based on comments and suggestions from the Land Conservation and Development Commission staff and reviewing agencies, that they would be combined into one Comprehensive Plan. The Dalles Urban Plan remains as the Plan for the City of The Dalles and surrounding urban area. The county-wide approach to planning will continue to allow active citizen participation while giving a clear and concise picture of the County's goals and avenues for achieving those goals.

Since this plan attempts to address all topics of interest to the citizens of Wasco County, an extensive amount of detail must be avoided. Such detail is not needed in a plan which assigns future general land uses. More detailed information may be necessary when considering specific developments and projects on the land, and should be provided by the developers.

Generalized Planning Process

The planning process, as shown on the following schematic, is a continual process. It begins with a knowledge of the intent of land use planning and the Land Conservation and Development Commission's (L.C.D.C.) 14 Goals and Guidelines.

Page 2 of 4



Data is collected and gathered into an inventory document which will become the factual basis for the plan. An analysis of the data is then undertaken. This becomes a complex consideration of the physical, social, economic, energy, and environmental data with respect to future land use. Goals and policies, to accommodate data analysis and the direction of the area's future, are then made. The plan is adopted through a hearings process, and the zoning and subdivision ordinances reflect the comprehensive plan. The plan must also be submitted to the Land Conservation and Development Commission for compliance with the state-wide goals. Citizen advisory groups, the Planning Commission, and a variety of governmental agencies are involved throughout the process. The comprehensive plan is not a static document but can be revised and updated as needed.

Planning Intent

The intent of the plan is to establish a single, coordinated set of policies which will act to provide for orderly development of Wasco County. These policies will give a direction to planning, establish priorities for action, serve as a basis for future decisions, provide a standard by which progress can be measured, and promote a sense of community for an improved quality of life. It will also help all levels of government and private enterprise to understand the wants and needs of Wasco County citizens.

Comprehensive Plan Definition (Oregon Revised Statute 197.015)

"Comprehensive plan" means a generalized, coordinated land use map and policy statement of the governing body of a state agency, city, county, or special district that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to, sewer and water systems, transportation systems, educational systems, recreational facilities, and natural resources and air and water quality management programs.

"Comprehensive" means all inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan.

"General nature" means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is "coordinated" when the needs of all levels of governments, semi-public and private agencies and the citizens of Oregon have been considered and accommodated as much as possible.

"Land" includes water, both surface and subsurface, and the air.

Citizen Involvement

Citizen involvement is an integral part of the overall planning process. It encompasses not only the review and acceptance of the comprehensive plan, but requires citizens to be involved in each phase of plan development.

To ensure continued meaningful citizen involvement and influence in the development of various plans and ordinances the County will organize staff and work with a number

Page 4 of 4

of citizen advisory groups. The County's planning program (and state law) has continued to progress to a point where clear topic areas have developed. It is critical the Planning Department be able to seek the expertise and opinions of individuals with knowledge and interests in these various subjects. For this reason the pre existing regionally defined citizen advisory group format of citizen involvement is now being organized around specific planning topics and tasks. The advisory groups will be set up to represent issues including but not limited to the following subjects:

- Transitional Lands Study Area
- Goal 3 Lands
- Goal 4 Lands
- Rural Communities
- National Scenic Area

This arrangement provides input on specialized topic areas while also representing regional interests as they align themselves with the topics and their related planning tasks. Citizens serving on these committees will focus in depth on projects within their focus area. They will meet regularly on at least a bi-annual basis to review the workings of adopted ordinances and plan provisions affecting their immediate interests. In addition to these regular meetings, they will coordinate with staff, as needed, to provide input on suggested revisions and critical issues prior to bringing these issues before the Planning Commission.

Advisory group members shall also be charged with seeking and bringing to the planning process the broader input of the citizens with whom they live and work. Members represent or have affiliation with groups that have special knowledge (or interest) regarding the focus subject. In addition to bringing input to the planning process, advisory groups will also carry the knowledge they gain back to those same citizens. The County will continue to encourage input from the broader public throughout its planning process at the advisory group level, before the Planning Commission and before the County Court.

Citizen Advisory Group membership will be by appointment of the County Court. Group size will vary depending on interests to be represented. Terms of appointment will be determined by the advisory group members.

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Wasco County Comprehensive Plan

GEOGRAPHICALLY ACKNOWLEDGED BY LCDC August 25, 1983

*EFFECTIVE

9 May 1984

4 April 1984

6 November 1985

9 July 1986

11 September 1986

7 January 1987

15 April 1987

11 January 1989

12 April 1989

3 May 1989

4 October 1989

7 March 1990

20 June 1990

15 May 1991

2 June 1993

7 June 1993

4 October 1993

15 December 1993

28 February 1995

17 June 1996

13 November 1996

20 December 1996

10 October 1997

17 November 1997

16 June 1998

26 August 1998

7 October 1998

27 April 1999

3 June 1999

30 June 1999

7 July 1999

24 November 1999

9 February 2000

28 May 2003

^{*}Some early effective dates may be missing

PREPARED BY THE Wasco County Planning and Development Office

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Benjamin Hoey
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Director
Senior Planner
Associate Planner
Associate Planner
Planning Assistant
Code Compliance Officer

STATEMENT OF MICHAEL FERGUSON

Reciaved by Broudanties 7/7/15

I am the son of Ernest and Linda Ferguson, who purchased property on Obrist Road from James and Helen Keehnen, on November 10, 1978. This transaction is recorded as a deed, Number 783779.

We lived at 809 Lincoln Street, The Dalles, when my parents purchased the property. Within about a month, there was a fire at our house on Lincoln Street. My Dad bought a manufactured home and moved it to the Obrist Road property. A spot was cleared for the manufactured home, it was installed, and my family and I began living there. Within a year, a bedroom was added for me. I lived on the Obrist Road property from 1979 through my high school years.

I remember the dates because of the fire, and subsequent actions that my father took to make a home for his family on the Obrist Road property.

Michael Ferguson

(address)

son Mylinger 911 Federal ST, 48 The Dalles, OR

(date)

7-4-15

ADDITIONAL DISCUSSION FOR APPLICATION FOR CONFIRMATION OF NON-CONFORMING BUILDING & USE

Applicant/Owner: Joseph Garofoli

Mailing Address: 4408 NE 77th Avenue

Portland, OR 97218-3924 (503) 288 2569 Home (503) 252 0974 Work

Site Address: 5320 Orbist Grade Road

Map: 1S 12E 18 402

Applicant's Representatives: Leslie Ann Hauer

6100 Collins Road

West Richland, WA 99353

(509) 967-2074 (509) 539-9992

Carrie Richter

Garvey Schubert Barer

121 SW Morrison Street, 11th floor

Portland, Oregon 97204

(503) 228-3939

Comprehensive Plan/ Current zoning A-1 Zoning Historic zoning A-3

Background

Mr. Garofoli submitted an application for verification of non-conforming use and restoration of a non-conforming use following its destruction by forest fire prior to the September 8, 2014 deadline. Subsequently, Mr. Garofoli requested a stay in processing "completeness" in order to submit additional information. In November 2014, Mr. Garofoli submitted a request to alter the non-conforming use by changing the orientation of the structure and to increase the size of the structure.

In the staff report, staff suggests that Mr. Garofoli could have replaced this dwelling by getting a new land use approval as either a non-farm dwelling or as a lot-of-record dwelling. This is the first time that staff has suggested there may be another path for the applicant to recover what he has lost through no fault of his own. Further, it is misleading to suggest that either of these alternative paths are assured. Qualifying as a non-farm dwelling under the county's current standards requires a showing that the land is "generally unsuitable" for farming. Although this property has never been farmed, additional research and potentially expert testimony would be necessary to establish this was this case, which could come at a significant cost when the result is not assured. WCZO 3.210(J). To qualify for a lot of record dwelling, the owner must have owned the property since before January 1, 1985. The applicant acquired the property in July, 2007 and would not qualify for a lot-of-record dwelling.

Summary of Facts

The cabin previously located at 5320 Orbist Road was destroyed by the 2013 Government Flats Complex fire.

Testimony of neighbors was provided with the application, demonstrating that the residential structure had been on the property prior to 1993, and most likely was originally placed on the property in 1978 or 1979 following the creation of the 13.50-acre lot.

In addition to the testimony considered by staff, the applicant has been able to contact Michael Ferguson, the son of Ernest and Linda Ferguson, who purchased the property in 1978. Mr. Ferguson testified that he lived in a manufactured home that was located on the property in 1978, with a new bedroom addition constructed shortly thereafter.

The County's record retention policy for building permits is two years. As a result, the County has no building or septic permits on file relating to the siting of the manufactured home or its expansion shortly thereafter.

Summary of Requirements

The County's Code sets out requirements for verification, restoration, and alteration of a nonconforming use in Chapter 13. Specifically, the following sections apply to this application:

Chapter 13 Nonconforming Uses, Buildings and Lots 13.060 Restoration or Alteration of Nonconforming Use

13.060.A.3 – The replacement dwelling will be located in the same area, with a small change in orientation from the original footprint. Setbacks will generally be the same and far exceed minimum requirements for the zoning district.

13.060.C.Alteration of a nonconforming use....

This section requires that an alteration will "result in no greater adverse impact on the neighborhood or shall result in less of an adverse impact on the neighborhood...."

13.060.C.1.a Residential Uses Only

- (1) The cabin use was shown to be established prior to 1993, with evidence indicating it was on the site at least from 1982. No conditions or limitations associated with its creation have been identified.
- (2) The proposed replacement dwelling will be similar in appearance to the previous cabin and in any case will be in the same location (with proposed minor change in orientation).
- (3) The use of the replacement dwelling will be identical to the previous cabin.
- (4) The proposed addition to the cabin area will not cause a non-conforming condition with respect to setbacks, which remain far greater than required for the zone.
- (5) Setbacks for the original dwelling and the replacement dwelling greatly exceed minimum requirements.
- (6) The applicant expects that any required standards pertaining to health, safety, fire protection, and so on, will be satisfied when plans are submitted for building permits.
- (7) No factors impacting the character or needs of the neighborhood have been identified. The replacement dwelling will be largely invisible from Obrist Road and adjacent properties.

In addition to the County Code, the Oregon Revised Statutes ("ORS") 215.130 provide a limitation to the amount of information (subsection 11) that a County may demand of an applicant requesting a continuation or alteration of a non-conforming use (subsection 5):

(5) The lawful use of any building, structure or land at the time of the enactment or amendment of any zoning ordinance or regulation may be continued. Alteration of any such use may be permitted subject to subsection (9) of this section. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. Except as provided in ORS 215.215, a county shall not place conditions upon the continuation or alteration of a use described under this subsection when necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structures associated with the use. A change of ownership or occupancy shall be permitted.

(11) For purposes of verifying a use under subsection (5) of this section, a county may not require an applicant for verification to prove the existence, continuity, nature and extent of the use for a period exceeding 20 years immediately preceding the date of application. (Emphasis added.)

Further, ORS 215.215 provides that in cases where nonfarm dwellings are destroyed by fire, the county zone regulations may allow re-establishment, notwithstanding other restrictions that may exist in state law, particularly ORS 215.130. It provides:

Notwithstanding ORS 215.130(6), if a nonfarm use exists in an exclusive farm use zone and is unintentionally destroyed by fire, other casualty or natural disaster, the county may allow by its zoning regulations such use to be reestablished to its previous nature and extent, but the reestablishment shall meet all other building, plumbing, sanitation and other codes, ordinance and permit requirements.

Analysis

The Dwelling Existed on the Date that the Restrictive Zoning Took Effect

County zoning established the "A-1" (Exclusive Farm Use) Zone on April 1, 1980, requiring a minimum of 80 acres for new lots. The subject property is smaller than 80 lots and as a result, a dwelling may not be constructed unless the structure was in existence on or before March 31, 1980. As long as the structure was in existence before this date, the County need not establish exactly when the structure was established. *Aguilar v. Washington County*, 201 Or App 640, 645-50, 120 P3d 514 (2005). The evidence that a dwelling existed on March 31, 1980 includes testimony that a manufactured home was placed in the property in 1979. This is conclusive evidence that the home was in "existence" before March 31, 1980.

Further, Mr. Garofoli has provided evidence that the cabin existed on the Obrist Road property for more than 20 years, satisfying the standard in ORS 215.130(11). This presumption coupled with the uncontroverted oral testimony of the continuous existence of the structure is sufficient to establish that the structure was lawfully established when the zoning took effect. This evidence is sufficient to satisfy the County's code coupled with state law authority for establishment of this nonfarm use under ORS 215.215.

In a recent case, *Rogue Advocates vs. Jackson County* (LUBA Nos. 2013-102/103), LUBA faced a similar non-conforming use establishment issue as it related to the establishment of a "batch plant," a facility used for mixing materials such as asphalt or concrete, where the restrictive zoning took effect in 1973. The County relied on testimony from the plant owner, Howard DeYoung to conclude that a batch plant operated on the property from 1963 to 1974. Notwithstanding the lack of any building permits or DEQ-required air quality permits on file, LUBA affirmed the County's approach finding that such oral testimony was reasonable and substantial evidence sufficient to prove that the use was in existence and affirmed the county's finding that it was a lawful non-conforming use.

Lack of a Building or Septic Permit is Irrelevant

According to County staff, there are no permits in the files for any aspect of the establishment of the structure—no building permit or septic system approval. First, the County's only obligation with respect to *Aguilar* and the local regulations, is to show that the structure existed on March 31, 1980, the date when the restrictive zoning took effect, and not the date when it was first established. Second, building permits in the past were only kept for two years and as a result no building permit approvals would remain. Given the County's short record retention practices, the lack of records in this case only suggests that the County likely destroyed any records. It does not suggest that the building was constructed after 1980 and in fact, provides no guidance as to when the building was constructed.

Again, in *Rogue Advocates*, LUBA considered whether the lack of evidence of required air quality permits for the batch plant established that the use was not "lawful." LUBA explained that the obligations imposed by ORS 215.130 are directed at whether the required land use approvals were obtained. LUBA explained:

In our view, a use is lawfully established for purposes of verifying that use as a nonconforming use under ORS 215.130(5) and the county's regulations if, at the time restrictive zoning is applied, the use is established and either required no local land use approvals under a comprehensive plan or land use regulations or received all required local land use approvals that were required under the applicable comprehensive plan and land use regulations. Under ORS 215.130(5) through (11), verification and other elements of nonconforming uses are described with reference to local zoning ordinances and land use regulations.

Building and septic permit approvals are not required zoning or land use approvals and the failure to obtain such permits does not prove that the dwelling was not lawfully established or that the structure was constructed after April 1, 1980. Lack of records is not proof, particularly when the lack of records, given the County's practice of recycling such records, does not contradict the oral testimony indicating that the structure was established before March 31, 1980.

Finally, ORS 215.215 appears to allow reestablishment of a nonfarm use, including nonfarm dwellings, if the county code allows for such establishment, notwithstanding the requirements of ORS 215.130(5) through (11) and the cases interpreting them, the basis for staff's recommendation of denial in this case. The County's code requires a finding that the "non-conforming use" is "lawfully established." Again, this is directed at the County's review of the land use and not whether other building permit or septic permits may have been required.

CONCLUSION

Mr. Garofoli has provided uncontroverted and detailed evidence that the structure, along with the one bedroom addition was "lawfully established." A use is presumed to be "lawfully established" if it existed before land use review was required and it exceeds the 20-year limit of ORS 213.130(11). No land use approval was required in order to locate a non-farm dwelling in 1979, when the dwelling was established. As a result, the structure was "lawfully established" with regard to land use. The lack of building or permits unrelated to land use review does not prove that that the dwelling was unlawfully established. More importantly, the question of whether a structure lawfully exists is restricted to land use permitting and need not include any consideration of other building code or DEQ issued permits that may or may not have also been required.

Mr. Garofoli requests that the Planning Commission accept the testimony that has been provided, and allow him to replace his cabin with a slightly re-oriented residence at its previous location and allow the alteration/enlargement as proposed. Testimony has been provided that the building re-orientation and enlargement can be accomplished with minimal impact to the site and surrounding properties. Reconstruction of this dwelling will require the applicant to obtain a building permit as well as any necessary septic or Health Department issued permits.

For these reasons, Mr. Garofoli asks that the Planning Commission approve his application.



Wasco County Planning Department

"Service, Sustainability & Solutions"

2705 East Second St. • The Dalles, OR 97058 (541) 506-2560 • wcplanning@co.wasco.or.us www.co.wasco.or.us/planning

WASCO COUNTY PLANNING COMMISSION AGENDA PACKET

FOR

Hearing Date: July 7, 2015

Hearing Time:

3:00 pm

Hearing Location:

Mosier Terrace (Senior Center)

500 E 2nd Street

Mosier, Oregon 97040

Action Item(s):

I. QUASI JUDICIAL HEARING:

File PLANCU-14-09-0003 Garofoli

Request for a nonconforming Use Determination for a recreational cabin, and request to replace a cabin and accessory building burned in a wild fire in the Exclusive Farm Use Zone, and the EPD-8, Sensitive Wildlife Habitat Overlay Zone (Big Game Winter Range). The subject parcel is located on an access road, approximately 220' south of Obrist Road, approximately 3.1 miles west of Dutch Flat Road, approximately 10 miles southwest of The Dalles.



Wasco County Planning Department

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MEMORANDUM TABLE OF CONTENTS

Date:

June 30, 2015

To:

Wasco County Planning Commission

From:

Wasco County Planning Office

Subject:

Submittal for Hearing dated July 7, 2015

I. LEGISLATIVE HEARING:

File PLANCU-14-09-0003 Garofoli

Request for: (1) Verification of a non-conforming use (a previously existing single-family dwelling that burned down in the 2013 Government Flats Complex wildfire) and

(2) replacement of that use (construct a new, slightly larger single-family dwelling and two new accessory buildings in the same location).

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Wasco County Planning Department

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HEARING DATE: July 7, 2015

SUMMARY OF INFORMATION

Prepared for Planning Commission Hearing

FILE # PLANCU-14-09-0003

REQUESTS: (1) Verification of a non-conforming use (a previously existing single-family dwelling that burned down in the 2013 Government Flats Complex wildfire) and (2) replacement of that use (construct a new, slightly larger single-family dwelling and two new accessory buildings in the same location).

STAFF RECOMMENDATIONS:

Request (1): Staff recommends denial Request (2): Staff recommends denial

APPLICANT:

Joe Garofoli

4408 NE 77th Avenue

Portland, OR 97218-3924

OWNER:

Joe Garofoli

Same

APPLICANT'S CONSULTANTS:

Leslie Hauer, Planning Consultant

Carrie Richter, Legal Counsel

PROPERTY INFORMATION:

Zoning:

A-1 (160), Exclusive Farm Use Zone in Wasco County

EPD-8, Sensitive Wildlife Habitat Overlay Zone (Big Game Winter Range)

Location:

The subject parcel is located on an access road, approximately 220' south of Obrist Road,

approximately 3.1 miles west of Dutch Flat Road, approximately 10 miles southwest of The Dalles,

Oregon; and is further described as:

Tax Lot

Acct #

Acres

1S 12E 18 402

16341

13.54

ATTACHMENTS:

- A. Summary of Information & Conditions
- B. Planning Commission Options & Staff Recommendation
- C. Maps
- D. Staff Report
- E. ORS 215,130

Attachment A – Summary of Information & Conditions FILE # PLANCU-14-09-0003

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Attachment A – Summary of Information & Conditions

The full staff recommendation with all proposed findings of fact is enclosed as Attachment D and was available at the Wasco County Planning Department for review one week prior to the July 7, 2015, hearing. The full staff recommendation is made a part of the record. This summary does not supersede or alter any of the findings or conclusions in the staff report, but summarizes the results of Staff's review and recommendation.

An application was made by Joe Garofoli on September 8, 2014, to replace an existing recreational cabin (a single-family dwelling) and two sheds (accessory buildings) that burned in the 2013 Government Flats Complex Wildfire. Available information from the Wasco County Planning Department, Mid-Columbia Building Code Services, North Central Public Health District – Environmental Health Department, Wasco County Assessor's Office and additional information provided by the applicant, including signed statements from several neighbors, was reviewed. Using this information, staff was unable to confirm the burned dwelling and accessory buildings were legally constructed at the time of placement in 1979 or legally altered during subsequent remodels through 1982. Because the development cannot be verified as lawfully established development, staff cannot recommend replacement as the process for which to approve a new dwelling and accessory buildings on the subject property. Given this information, staff recommends a denial for both requests.

Please note, the applicant did not request the review of any other type of new dwelling that may be allowed on some properties through a new land use application. Non-replacement dwelling examples could include a non-farm dwelling or a lot-of-record dwelling. Staff's report and recommendations are limited to the review of the two requests made by the applicant: (1) Verification of a non-conforming use (a previously existing single-family dwelling that burned down in the 2013 Government Flats Complex wildfire) and (2) replacement of that use (construct a new, slightly larger single-family dwelling and two new accessory buildings in the same location). Please see the attached Staff Report for additional information (Attachment D).

PROPOSED CONDITIONS OF APPROVAL:

No conditions of approval are proposed.

Attachment B - Planning Commission Options and Staff Recommendation

Planning Commission Options

- A. Deny the (1) non-conforming use determination and deny the (2) replacement development; or
- B. Approve the (1) non-conforming use determination and approve the (2) replacement development with conditions of approval recommended by the Planning Department; or
- C. Approve the (1) non-conforming use determination and deny the (2) replacement development with conditions of approval recommended by the Planning Department; or
- D. Deny the (1) non-conforming use determination and approve the (2) replacement development
- E. Any combination of options (A) through (D) above, with amended conditions of approval; or
- F. If additional information is needed, continue the hearing to a date and time certain to allow the submittal of additional information.

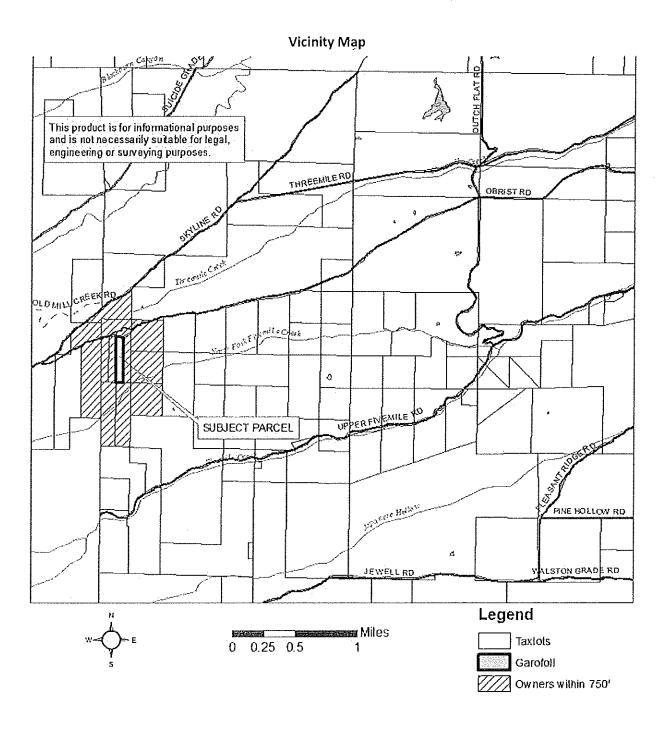
Staff Recommendation

Staff recommends Option A: Deny requests (1) and (2) on the grounds that the original development was not lawfully established and therefore cannot be verified or replaced through WCLUDO *Chapter 13 Nonconforming Uses, Buildings and Lots.*

Attachment C - Maps

Applicant/Owner: Joe Garofoli

1S 12E 18, Tax Lot 402



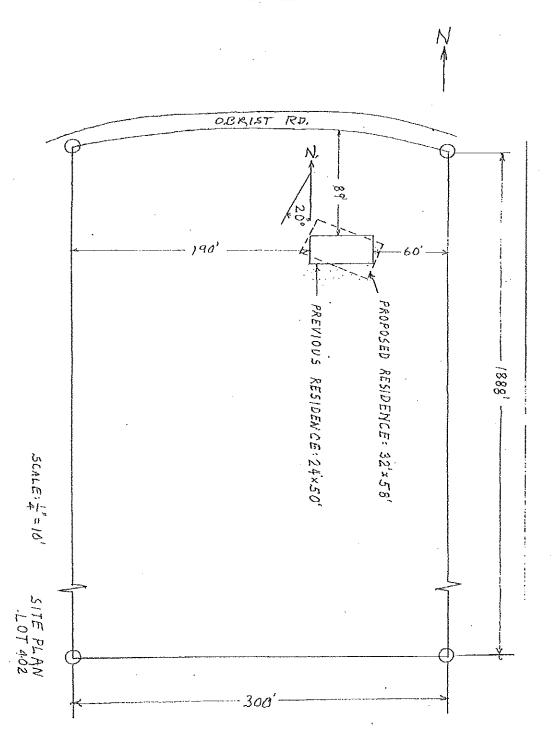
Attachment C – Maps PLANCU-14-09-0003 (Garofoli)

Attachment C - Maps

Applicant/Owner: Joe Garofoli

1S 12E 18, Tax Lot 402

Site Plan



Attachment C – Maps PLANCU-14-09-0003 (Garofoli)

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File Number:

PLANCU-14-09-0003

Applicant/Owner:

Joe Garofoli

Applicant's Consultants: Leslie Hauer, Planning Consultant Carrie Richter, Legal Counsel

Requests:

(1) Verification of a non-conforming use (a previously existing single-family dwelling that burned down in the 2013 Government Flats Complex wildfire) and (2) replacement of that use (construct a new, slightly larger single-family

dwelling and two new accessory buildings in the same location).

Hearing Date:

July 7, 2015

Recommendation:

(1) Nonconforming Use Determination: Denial

(2) Replacement dwelling and accessory buildings: Denial

Location:

The subject parcel is located on an access road, approximately 220 feet south of Obrist Road, approximately 3.1 miles west of Dutch Flat Road, approximately 10 miles southwest of The Dalles, Oregon; more specifically described as:

Existing Tax Lot Acct# <u>Acres</u>

1S 12E 18 402

16341

13.71

Zoning:

A-1 (160), Exclusive Farm Use Zone, Wasco County.

The property is also located in the EPD-8, Sensitive Wildlife Habitat Overlay

Zone (Big Game Winter Range).

Past Actions:

None.

Procedure Type:

Quasi-Judicial

Prepared By:

Angie Brewer, Planning Director and Dawn Baird, Associate Planner

APPLICABLE STANDARDS

Wasco County Land Use & Development Ordinance (LUDO)

A. Chapter 13 – Nonconforming Uses, Buildings and Lots

Section 13.050

Verification of Nonconforming Use

Section 13.060

Restoration or Alteration of Nonconforming Use

B. Chapter 3 - Basic Provisions

Section 3.210, A-1 (160), Exclusive Farm Use Zone

Section 3.210.D.10.

Uses Permitted Subject to Standards/Type II Review -

Alteration, restoration, relocation or replacement of a lawfully

established dwelling (discretionary)

I. BACKGROUND

- A. Legal Parcel: The subject property is identified as Parcel 2 of Minor Partition 79-110-WAA3, recorded with the Wasco County Clerk's Office on February 13, 1979. This property meets the definition of a Legal Parcel pursuant to Section 1.090 of the WCLUDO because it is a parcel in a duly recorded partition.
- B. Site Description: The subject parcel contains steep slopes. The northern 40% (+/-) of the parcel contains north-facing slopes averaging 33 %. The southern 60% (+/-) of the parcel contains east-facing slopes averaging 25%. There is a small draw near the center of the property where the slopes change direction. The property is approximately 2,520 feet above sea level (ASL) at its highest point, and is approximately 2,280 feet ASL at its lowest point. The northern third of the property contains scattered tree cover, while the remainder is heavily wooded with trees. Open areas contain natural grassland.
- C. Surrounding Land Use: Properties to the east, south, and west contain similar slopes as the subject parcel (25-33% north, east, and southeast-facing). Slopes on properties north of Obrist Road are generally less than 5%, east-facing. Threemile Creek flows through property to the northeast, and the North Fork of Fivemile Creek flows through properties to the south and southeast. With the exception of property to the east which, according to the Assessor's Office, contains a single-family dwelling, all adjacent properties are vacant. Scattered trees exist throughout the area with draws and areas along creeks being heavily vegetated with trees.
- D. Context of Proposal: According to information provided by the applicant, a single-wide trailer was placed on the subject property in 1979. Later that year a "shelf" was constructed around the trailer. Between 1980 and 1981, the shell was enclosed and an addition was constructed. In 1982, a residence appears on the Wasco County Assessor's tax rolls. The dwelling is used as a recreational cabin (a single-family dwelling) until 2013, when a wildfire burned it down. The applicant began working with the Wasco County Planning Department on procedures for replacement within one-year of the structure loss.

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The Wasco County Zoning Ordinance in effect at the time of the original development listed "single family dwellings" and "accessory buildings" as a use that would have been allowed with a land use permit on the subject parcel (then zoned A-3). Unfortunately, no permits for a dwelling or accessory building could be found by the Planning Department, Building Department or Health Department for the destroyed buildings.

The applicant contends that through ORS 215.130(11)¹, the structures can be deemed legal if continued existence and use can be demonstrated for 20 years prior to the date of the application. The applicant provided tax records, photographs and statements from long time area residents to verify the continued existence of the buildings. Staff does not argue that the buildings have existed and been continuously used for the last 20 years, however Staff contends that verification of continued use does not demonstrate compliance with rules in effect at the time of development. Furthermore, Staff contends that ORS 215.130(11) does not preclude the County from requiring that information when considering an application for the verification of a non-conforming use.

II. FINDINGS:

Wasco County Land Use & Development Ordinance (LUDO)

Before the applicant can propose to replace the destroyed cabin and accessory buildings, they must first be found to be legally existing non-conforming uses.

A. Chapter 13 - Nonconforming Uses, Buildings and Lots

Section 13.010, Purpose

It is necessary and consistent with the establishment of this Ordinance that all uses and structures incompotible with permitted uses or structures in each zone be strictly regulated and permitted to exist only under rigid controls. The purpose of such regulation and control is to discontinue nonconforming use or structure, change a nonconforming use or structure to a conforming status, or allow alterations to a nonconforming use or structure that do not increase the level of adverse impact on the neighborhood, or are required for the use or structure to comply with state or local health or safety requirements.

Section 13.020, Continuation of a Nonconforming Use

Except as is hereafter provided in this Ordinance, the lawful use of o building or structure of ony land or premises lawfully existing at the time of the effective date of this Ordinance or at the time of a change in the official zoning maps moy be continued, although such use does not conform with the provisions of this Ordinance. Alterations to nonconforming structures moy only be made consistent with Section 13.060.

¹ ORS 215.130(11) states: "For purposes of verifying a use under subsection (5) of this section, a county may not require an applicant for verification to prove the existence, continuity, nature and extent of the use for a period exceeding 20 years immediately preceding the date of application." Source: https://www.oregonlegislature.gov.

Section 13.030, Conveyance of Nonconforming Use

(***)

Section 13.040, Construction on and Conveyance of Nonconforming Legal Parcels

(***)

Section 13.050, Verification of Nonconfarming Use

Must meet lawfully established and discontinuance or abandonment criteria below.

- A. <u>Lawfully Established</u>: For a nonconforming use to be verified as lawfully established it shall be consistent with all of the following:
 - 1. The nonconforming use has not been expanded in size or area or changed in purpose or use beyond what wos lawfully established;

<u>FINDING</u>: The dwelling has changed since it was constructed. According to information provided by the applicant, a single-wide trailer was placed on the subject property in 1979. Later that year a "shell" was constructed around the trailer. Between 1980 and 1981, the shell was enclosed and an addition was constructed. In 1982, a residence appears on the Wasco County Assessor's tax rolls. The dwelling was used unchanged as a recreational cabin (a dwelling) until 2013, when a wildfire burned it down. No permits or other records could be located in the Planning Department, Building Department or Health Department to demonstrate that the use was lawfully established in 1979 or lawfully altered at a later date. Given this information, staff finds that the use is inconsistent with this criterion.

2. The property on which the nonconforming use is located meets the definition of legal parcel in Chapter 1 of this ordinance;

<u>FINDING:</u> The subject property is identified as Parcel 2 of Minor Partition 79-110-WAA3, recorded with the Wasco County Clerk's Office on February 13, 1979. This property meets the definition of a Legal Parcel pursuant to Section 1.090 of the WCLUDO because it is a parcel in a duly recorded partition.

- 3. The nonconforming use was lawfully established on or before the effective date of the provisions of this ordinance prohibiting the use verified by either a or b below. No unlawful use of property existing at the time of the effective date of the provisions of this ordinance shall be deemed a nonconfarming use.
 - a. <u>Type I Verification</u>: Lawfully established is verified by non-discretionary evidence including but not limited to zoning approval ar County Assessor recards verifying the date of establishment. This type of verification is not subject to ony review pracess because it does not involve the exercise of any discretion or judgment. If the applicant wishes documentation of this it shall be done as a Land Use Verification Letter.
 - b. <u>Type II Verification</u>: Lacking non-discretionary evidence, lawfully established is verified by a discretionary process consistent with Section 2.060(A)(9).

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It is the burden of the applicant to provide o prepanderance of evidence which will allow the Planning Director to conclude the nonconfarming use was lawfully established. Such evidence includes but is not limited to:

- -Utility Bills and Recards (phone, power, sewer, water)
- -Aerial Photographs
- -Dated Photos
- -Notarized Letters or Affidavits affirming the date of establishment

FINDING: According to information provided by the applicant, the development was constructed in 1979 and modified several times between 1979 and 1982. County Assessor records verify the development existed in 1982. In 1979 the subject property was zoned A-3 and the *Wasca Caunty Land Use and Development Ordinance* in effect at the time required a land use application and review for new dwellings, accessory buildings and related utilities for water, power and sanitation. No permits or any other department records could be found to demonstrate past compliance or current compliance with applicable land use regulations, building codes or health and sanitation requirements. Given this information, the request is inconsistent with the Type I verification process.

Pursuant to the Type II verification process, the applicant provided Assessor's records, photographs and letters from longtime nearby residents to demonstrate the existence and ongoing use of the dwelling and accessory buildings. The applicant also provided a written statement contending that ORS 215.130(11) allows for the recognition of structures whose continued existence and use can be demonstrated for 20 years prior to the date of the application. As previously noted in Finding (D) above, Staff does not argue that the buildings have existed and been continuously used for the last 20 years. However Staff finds that verification of continued use does not demonstrate compliance with rules known to be in effect at the time of development and that ORS 215.130(11) does not preclude the County from requiring that information when considering an application for the verification of a non-conforming use. In sum, staff's analysis concludes that the dwelling and accessory buildings lost in the 2013 wildfire were not lawfully established and therefore cannot be verified as lawfully established nonconforming uses.

- B. <u>Discontinuance or Abandanment</u>: For a nonconfarming use to be verified as lawfully established it must not have been discontinued or obandaned according to the following criteria. Based on the circumstances, the Director shall determine whether discontinuance or obandonment shall be reviewed as a Type I or Type II process as described in A above.
 - 1. The reference period for determining whether an obandonment or interruption of a nonconforming use ar an aspect thereof has occurred shall be twelve (12) consecutive months in any of the ten (10) years preceding the date of the application. Proof of intent to abandon is not required to determine that a nonconforming use has been discontinued ar abandoned.
 - 2. <u>An abandonment or interruption</u> of a use moy arise from the complete cessotion of the actual use far a twelve (12) month period even if improvements to support the use remain in place.
 - 3. <u>An interruption ar obandanment</u> for a twelve (12) manth period that canstitutes <u>less than</u> full cessation af the use or a portion thereof moy result in a declaration of a continuing

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Attachment D – Staff Report PLANCU-14-09-0003 (Garofoli)

use, but of a lesser intensity or scope than what would hove been ollowable if the noture and extent of the use as of the date it became nonconforming had continued, even if improvements to support the full use remain in place.

4. <u>A change in the nature of the use</u> may result in a determination that the use has been abandoned or has ceased for a twelve (12) month period if there are no common elements between the activities of the previous use and the current use.

Factors to be considered in determining whether there has been a change in the nature of a use shall include, but are not limited to, consideration of the type of activities being conducted, the operating characteristics of the activities associated with the use (including off-site impacts of those activities), changes in structures associated with the use and changes in the degree to which the activities associated with the use occupy the site.

<u>FINDING:</u> According to the applicant, the dwelling was used as a recreational cabin and a "weekend getaway" cabin. Sufficient information was provided as part of the application materials to verify that the dwelling has been used consistently in this manner since the time of its construction in 1979.

<u>SUMMARY FINDING</u>: Section 13.050 *Verification of a Nonconforming Use* requires compliance with all of criteria (A) and (B). Although the applicant was able to provide information confirming that the use had not been discontinued or abandoned, the use could not be verified as a lawfully established. Given this information, the single-family dwelling and accessory buildings lost in the 2013 wildfire are not lawfully established and could not be verified as nonconforming uses.

Section 13.060, Restoration or Alteration of Nonconforming Use

Restoration or alteration of a nonconforming use or structure shall be reviewed according to Section 2.060(A)(9) and limited to the applicable criteria below and Verification of Nonconfarming Use In Section 13.050 above. Any other restorations or alterations shall conform to all of the criteria of this ordinance.

Maintenance, repair, alterotion, restoration or replacement of a lawfully implemented ar established dwelling in the Exclusive Form Use or Forest Zone shall be governed by those zones and not be subject to the alteration language in Chapter 13. However, these dwellings will be subject to a Chapter 6 or 7 Variance Review if they cannot meet all of the provisions of the Wasco County Land Use and Development Ordinance, and must comply with all current health and safety ordinances including but not limited to Geologic Hazard Overloy (Section 3.750) Fire Safety Standards (Chapter 10) and Fload Damage Preventian (Chapter 22).

- A. Restoration or Replacement of a Nonconfarming Structure Destroyed by Fire, Other Casualty or Disaster: If a nonconforming structure or a structure containing a nonconforming use is destroyed by fire, other casualty or natural disaster, restoration or replacement shall be permitted subject to the following criteria:
 - 1. <u>Time Limitation:</u> An application is received within twelve (12) months from the occurrence of the fire, casualty or natural disaster. The application shall include official documentation establishing the date of the fire, casualty, or natural disaster. If an application is not

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received within twelve (12) months from the occurrence, the nonconforming use shall be considered discontinued.

<u>FINDING</u>: The dwelling and accessory buildings were destroyed in the Government Flats wildfire of 2013. An application was received from the applicant on September 17, 2014 – within twelve months of the occurrence of the fire, consistent with the time limitation of this provision.

2. <u>Size:</u> The restoration of a nonconforming building or structure may not increase the floor area or create a greater nonconformance than existed at the time of damage or destruction. Any changes in height, additions of attics basements, decks or elements that were not part of the ariginal structure beyond what is necessary to comply with current building code or building industry standards shall be considered an olteration.

FINDING: The original cabin was a 1,200 square foot, single-story dwelling (footprint of 24'x50'). The proposed replacement dwelling is 1,856 square foot, single-story dwelling (footprint of 32'x58'). As proposed, the replacement building would increase the floor area, and therefore must be considered an alteration. The applicant states that the replacement accessory buildings will replace the functioning accessory buildings at the time of the fire, including a 192 square foot, single-story storage shed (footprint of 12'x16') and a 144 square foot, single-story wood shed (footprint of 12'x12'). No information was provided about the size of the previously existing accessory buildings.

3. <u>Location:</u> The restoration shall be sited an the same footprint as the original structure. However, if the applicant wishes to change the location to better comply with current setbock, buffer ar health and safety standards, the restoration will be ollowed to be relocated the minimum distance necessary to achieve this goal. Any relocation beyond the minimum distance necessary shall be considered on olteration.

<u>FINDING</u>: The applicant provided a site plan depicting the replacement dwelling with a larger footprint and a slightly different angle, in the same location as the original dwelling. The proposed accessory buildings are not shown on the site plan.

4. <u>Health & Sofety:</u> The restorotion shall comply with oll current health ond safety ordinances including but nat limited to Geologic Hazard Overlay (Section 3.750) Fire Safety Standards (Chapter 10) and Flood Domoge Prevention (Chapter 22).

<u>FINDING</u>: The subject parcel is not located in the Geologic Hazard Overlay or Flood Hazard Overlay. All new development is required to comply with Fire Safety Standards. As noted throughout this report, the use was not lawfully established and could not be verified as a nonconforming use pursuant to Section 13.050. Therefore, the restoration or replacement cannot be approved through Chapter 13 *Nonconforming Uses, Buildings and Lots.*

B. <u>Alteration of a nonconforming use to Comply with State or Local Health or Safety Requirements:</u> No conditions shall be placed upon the continuation or alteration of a nonconforming use when necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structures associated with the use.

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Proof of compliance with health or safety requirements or the necessity to maintain in good repair existing structures associated with the use shall be submitted with the opplication.

<u>FINDING</u>: The proposed alterations are not needed to comply with state or local health or safety requirements. The proposed development would be considered an alteration because the proposed replacement dwelling is larger than the original dwelling. The proposed development would replace destroyed development, and does not include alterations necessary to maintain good repair of existing structures.

- C. Alterotion of nonconforming use including but nat limited to any combination of the following:
 - Replacing a structure not damaged ar destrayed by fire, other casualty ar disaster;
 - Expanding a structure beyond its current size;
 - Relocating a structure to a different lacation on the same legal parcel;
 - 1. <u>Alteration will result in no greater adverse impact on the neighborhood or shall result in less of</u> an adverse impact on the neighborhood considering the criteria listed below:
 - a. Residential Uses Only
 - (1) The nonconforming use is in compliance with all canditions or limitations associated with its creation or approval;
 - (2) The comparative visual appearance between the existing nonconforming use and the proposed alteration;
 - (3) The alteration shall not change the manner or purpose of the use;
 - (4) The praposed alteration shall not result in greater nanconformity to property line setbacks or resource buffer requirements unless the alteration will extend a structure further away from and perpendicular to the property line or resource. Any proposal that would extend an existing structure further toward the property line or resource, ar expand an existing structure parallel into a setback or buffer shall also be subject to Chapters 6 & &, Variances and any other applicable review criteria;
 - (5) Relocation shall result in canfarmity with all property line setbacks and resource buffer requirements unless there is no other location on the property that could comply with all setback and buffer requirements and the relocation would remove the structure from an undesirable location according to the Wasco County Land Use and Development Ordinance such as a water buffer or floadplain. If the relocation connot conform to all setback and buffer requirements the application shall also be subject to Chapters 6 & 7, Variances and any other applicable review criteria;
 - (6) The alteration must be consistent with Health and Sofety Regulotians including but not limited to Geologic Hazard Overlay (Section 3.750) Fire Safety Standords (Chapter 10) and Flood Damage Preventian (Chapter 22);
 - (7) Other factors which impact the character or needs of the neighborhood;
 - b. Non-Residential Nonconforming Uses Only

(***)

<u>FINDING</u>: The proposed replacement dwelling and accessory buildings would replace previously existing development destroyed by fire; the replacement dwelling will be expanded from its original size; and

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Attachment D - Staff Report PLANCU-14-09-0003 (Garofoli)

although the dwelling will be located in the same location, the accessory building locations are not specified on the site plan. Criterion (6) is addressed above. Consistent with (2) through (5) and (7), the proposed alteration (replacement and expansion) would have a similar visual appearance as the previous development (both single-story dwellings); would not change the manner or purpose of the use (continued use as dwelling); the new dwelling would be in the same location (at a modified angle) and would not affect exiting setbacks or resource buffers (no impact on conformity); and would not impact the character or needs of the neighborhood. However, pursuant to criterion (1), alterations are only permitted for lawfully established nonconforming uses that are in compliance with all conditions or limitations associated with its approval. As previously explained above under Section 13.050, the existing dwelling and accessory buildings could not be verified as legally existing or lawfully established nonconforming uses. Given this information, alteration or replacement of the dwelling and accessory buildings destroyed by fire would be inconsistent with Section 13.060(C) and Chapter 13.

- 2. The Planning Director may impose canditions of oppraval an any alteration of o nancanforming use, structure(s) or other physical impravements permitted under this section when deemed necessary to ensure the mitigation of any adverse impacts. Such conditions could include but are not limited to:
 - a. Special yards and spaces.
 - b. Fences and walls.
 - c. Special parking and/or loading provisions.
 - d. Street dedication and improvements.
 - e. Cantrol of points of vehicle ingress and egress.
 - f. Special provisions for signs.
 - g. Landscaping and maintenance of grounds.
 - h. Control of noise, light, vibratian, dust, adar, fumes, glare, smoke or other similar nuisances.
 - i. Limitation of time for certain activities.
 - j. A time period in which a propased use shall be developed.
 - k. A limit of total duration of use.

<u>FINDING</u>: Section 13.060(C)(2) allows the Director to impose conditions on the alteration of a nonconforming use. As explained under Section 13.050 above, the previously existing development could not be verified as lawfully established nonconforming uses. Given this information, an alteration pursuant to Section 13.060 cannot be approved, staff is recommending a denial and no conditions of approval are recommended.

<u>SUMMARY FINDING</u>: As explained under Section 13.050, the use could not be verified as a lawfully established nonconforming use or structure. Therefore, the restoration, alteration *o*r replacement of the burned structures cannot be approved through Chapter 13 *Nonconforming Uses, Buildings and Lots.*

D. Chapter 3 - Basic Provisions

Section 3.210, A-1(160), Exclusive Farm Use Zone

A. <u>Purpose</u>: The purpose of the "A-1" Exclusive Farm Use Zone is to preserve and maintain agricultural lands for far use consistent with historical, existing and future needs, including economic needs that pertain to the production of agricultural products. And to permit the establishment of only those uses that are compatible with agricultural activities consistent

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Attachment D - Staff Report

with the applicable Stotutory and Administrative Rule provisions of ORS Chapter 215 and OAR Chapter 660, Division 33.

Uses, buildings or structures hereofter erected, structurally altered, enlorged or moved and land hereafter used in the "A-1" Exclusive Farm Use Zone shall comply with the fallowing regulations. If these regulations are preempted by mandatory ORS's or OAR's those shall be applied directly pursuant to ORS 197.646.

(***)

D. <u>Uses Permitted Subject to Standards/Type II Review: The following uses may be permitted on a legal parcel on londs designated "A-1" Exclusive Form Use Zone subject to the subsection F - Praperty Development Standards, subsection H - Agricultural Protection, Chapter 10 - Fire Safety Standards, Chapter 20 - Site Plan Review only if the request includes off-street parking, off-street loading or bicycle parking, as well as any other listed, referenced or applicable standards.</u>

(***)

10. Alteration, restoration relocation, or replacement of a lawfully established dwelling (discretionary) and/or accessory residential or non-residential building or structure on any part of the legal parcel subject to Sections F(1)(a)(3) - Addition, Modification or Relocation Setbocks and J(3) - Replacement Dwellings (Dwellings only).

FINDING: As previously explained above for the verification of a nonconforming use process, the dwelling appears to have been constructed and subsequently altered without land use approvals or permits. According to the applicant, Mid-Columbia Building Code Services does not retain building permit records dating back to 1979. The Planning Department and Health Department retain copies of land use compatibility statements (required for building permits) and thus records would exist for the subject property if permits were obtained from the Planning Department, Building Department, and/or Health Department. The submitted application materials were unable to demonstrate that the dwelling and accessory buildings were lawfully established. Given this information, the proposed replacement dwelling and accessory buildings are inconsistent with this use and cannot be approved through Section 3.210(D)(10).

Other provisions that could possibly allow for a new single family dwelling and accessory buildings in the Exclusive Farm Use Zone were not proposed by the applicant and therefore were not evaluated by staff.

CONCLUSARY FINDING: Based on the information available at the time of Staff's review, staff concludes the dwelling and accessory buildings destroyed by wildfire in 2013 are not lawfully established nonconforming uses and cannot be replaced or repaired through Chapter 13 *Nonconforming Uses, Buildings and Lots.* Please see Attachment C for staff's recommendation and Planning Commission options.

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Attachment E - ORS 215.130

Source: https://www.oregonlegislature.gov/bills_laws/lawsstatutes/1999orlaw0458.html

Viewed: June 30, 2015

"Chapter 4S8 Oregon Laws 1999 Session Law

AN ACT

SB 470

Relating to nonconforming land uses; amending ORS 215.130.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 215.130 is amended to read:

215.130. (1) Any legislative ordinance relating to land use planning or zoning shall be a local law within the meaning of, and subject to, ORS 250.155 to 250.235.

- (2) An ordinance designed to carry out a county comprehensive plan and a county comprehensive plan shall apply to:
- (a) The area within the county also within the boundaries of a city as a result of extending the boundaries of the city or creating a new city unless, or until the city has by ordinance or other provision provided otherwise; and
- (b) The area within the county also within the boundaries of a city if the governing body of such city adopts an ordinance declaring the area within its boundaries subject to the county's land use planning and regulatory ordinances, officers and procedures and the county governing body consents to the conferral of jurisdiction.
- (3) An area within the jurisdiction of city land use planning and regulatory provisions that is withdrawn from the city or an area within a city that disincorporates shall remain subject to such plans and regulations which shall be administered by the county until the county provides otherwise.
- (4) County ordinances designed to implement a county comprehensive plan shall apply to publicly owned property.
- (5) The lawful use of any building, structure or land at the time of the enactment or amendment of any zoning ordinance or regulation may be continued. Alteration of any such use may be permitted subject to subsection (9) of this section. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. Except as provided in ORS 215.215, a county shall not place conditions upon the continuation or alteration of a use described under this subsection when necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structures associated with the use. A change of ownership or occupancy shall be permitted.
- (6) Restoration or replacement of any use described in subsection (5) of this section may be permitted when the restoration is made necessary by fire, other casualty or natural disaster. Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster.
- (7) Any use described in subsection (S) of this section may not be resumed after a period of interruption or abandonment unless the resumed use conforms with the requirements of zoning ordinances or regulations applicable at the time of the proposed resumption.

Page **1** of **2**

Attachment E - ORS 215.130 PLANCU-14-09-0003 (Garofoli)

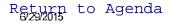
Attachment E - ORS 215.130

- (8) Any proposal for the verification or alteration of a use under subsection (5) of this section, except an alteration necessary to comply with a lawful requirement, for the restoration or replacement of a use under subsection (6) of this section or for the resumption of a use under subsection (7) of this section shall be subject to the provisions of ORS 215.416. An initial decision by the county or its designate on a proposal for the alteration of a use described in subsection (5) of this section shall be made as an administrative decision without public hearing in the manner provided in ORS 215.416 (11).
 - (9) As used in this section, "alteration" of a nonconforming use includes:
 - (a) A change in the use of no greater adverse impact to the neighborhood; and
- (b) A change in the structure or physical improvements of no greater adverse impact to the neighborhood.
- (10) A local government may adopt standards and procedures to implement the provisions of this section. The standards and procedures may include but are not limited to the following:
- (a) For purposes of [verification of] verifying a use under subsection (5) of this section, a county may adopt procedures that allow an applicant for verification to prove the existence, continuity, nature and extent of the use only for the 10-year period immediately preceding the date of application. Evidence proving the existence, continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, lawfully existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application;
- (b) Establishing criteria to determine when a use has been interrupted or abandoned under subsection (7) of this section; or
- (c) Conditioning approval of the alteration of a use in a manner calculated to ensure mitigation of adverse impacts as described in subsection (9) of this section.
- (11) For purposes of verifying a use under subsection (5) of this section, a county may not require an applicant for verification to prove the existence, continuity, nature and extent of the use for a period exceeding 20 years immediately preceding the date of application.

Approved by the Governor July 1, 1999

Filed in the office of Secretary of State July 2, 1999

Effective date October 23, 1999"





Angle Brewer <angleb@co.wasco.or.us>

Re: Notice of Planning Commission Hearing

1 message

John Zalaznik <johnz@co.wasco.or.us>

Wed, Jun 17, 2015 at 8:53 AM

To: Brenda Jenkins brendaj@co.wasco.or.us, Angie Brewer angieb@co.wasco.or.us, Patricia Neighbor <patrician@co.wasco.or.us</p>

I looked back in the file for any information on this property and found none. If the original site was developed in 1978 there should have been a site evaluation and permit with LUCS from County Planning. In this instance we would suggest that this be looked at as a new piece of property and a site evaluation and a installation permit be issued prior to approval for replacement structure in case the site is not approvable.

John Zalaznik, REHS Environmental Health Supervisor North Central Public Health District Johnz@co.wasco.or.us 541-506-2622

On Wed, Jun 17, 2015 at 7:39 AM, Brenda Jenkins brendaj@co.wasco.or.us wrote:

John

Nothing has changed. I just was unable to upload the application yesterday but needed to get the notice out due to a deadline. The application is available online now.

PLANCU-14-09-0003	GAROFOLI	NONCONFORMING USE DETERMINATION FOR A RECREATIONAL CABIN; REQUEST TO REPLACE A CABIN AND ACCESSORY BUILDING BURNED IN WILDFIRE	1S 12E 18: 402	ANGIE BREWER	Hearing Documents for Planning Commission hearing Dated July 7, 2015 at 3:00pm at the Mosier Terrace (Senior Center), 500 E 2nd Mosier, Oregon 97058:
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From: John Zalaznik [mailto:johnz@co.wasco.or.us]

Sent: Tuesday, June 16, 2015 5:19 PM

To: Brenda Jenkins

Subject: Re: Notice of Planning Commission Hearing

? I could not open the Garfoli information, has something changed on your website?

John Zalaznik, REHS

Environmental Health Supervisor

North Central Public Health District

johnz@co.wasco.or.us

541-506-2622

On Tue, Jun 16, 2015 at 3:01 PM, Brenda Jenkins brendaj@co.wasco.or.us wrote:

The Wasco County Planning Department has new information which has been updated on the webpage. Please visit the page to view the updated information for the following files. Please note: This is a Notice for a Wasco County Planning Commission Hearing Dated July 7, 2015, 3:00 PM. ***PLEASE NOTE: The July hearing will be located in the Mosler Terrace (Senior Center), 500 East 2nd, Mosler, OR.

Please see notice for comment requirements

1	11111	12
(Sin's	30)
1.1	17.11	
	STOP	11.

Wasco County Planning Department

"Service, Sustainability & Solutions"
2705 East Second St. • The Dalles, OR 97058
(541) 506-2560 • wcplanning@co.wasco.or.

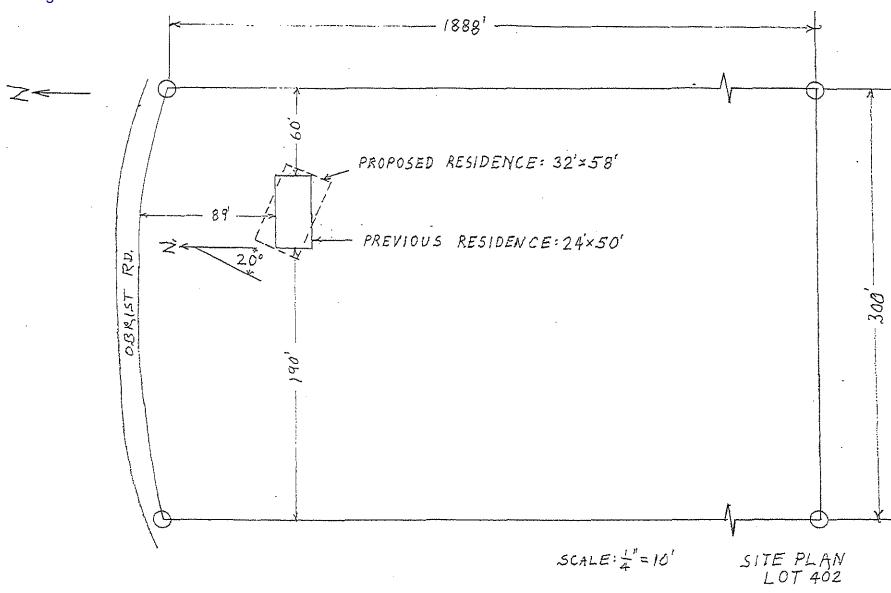
HELLER!	LAN	DUSE	APPLICA	TION	
SEP 08	2014	D OOLL T	OL ONICIA	11-00 0	Srv
sco cotair	FILE N	UMBER: <u>Y</u>	LANCOL	TION 4-09-00	
		77.00			

www.co.wasco.or.us/planning	l'u	FEE: _ COO. OC)			
Date Received: 9-8-79 Planner Initials:		te: 9-17-14 Planne	er Initials: COC			
APPLICANT INFORMATION	OWNER INFO					
Name: Toe Garofoli	Name:	Sam	C			
Address: 4408 NE 77Th AVE, Address:						
City/State/Zip: Portland, OR, 97218	3924 City/State/Zij);				
Phone: 503-288-2569/wrk 50325	20974 Phone:		-			
Emall: joe7 manzegnail. com						
PROPERTY INFORMATION						
Township/Range/Section/Tax Lot(s)	Acct #	Acres	Zoning			
01512 E1800402 00	16341	13,54	141 1-1 160			
Section 18 Township I south,						
Range 12 East of Willam.						
Meridian, Wasco CTY, OR.						
	L	1				
Property address (or location): 5320	Obrist Gra	de Rd. Th	c Dalles OR 470			
Water source: none, bring your						
(5) 300	C=1.00	•				
Name of road providing access: <u>ODELLE</u> Current use of property: <u>RECLECTION</u> Ca	hin Use of surrou	inding properties: 10	me, Farming, Forest,			
Do you own neighboring property? (NO 🗆 Y	ES (description)					
		0 41				
DETAILED PROJECT DESCRIPTION (proposed us						
Recreational Cabin, Wes						
one 26' x 56', one stor						
1-dinning room, 1-bathroom	1-STORAJE 1	com, Cahi	n, Replace			
existing cubin Chefore fire		wood STOVE				
1- Storage shed 12' X 16;	one story Tul					
1- would shed 12' x 17.1	11 11 14					
This will replace all	functioning.	building.	That burned			
down in The Govern	- "1 1.	omplex fire				
	C	Additional description	n/maps/pictures attached			

Land Use Application

PARCEL #3 Partition, Subdivision, OR Most Recent Pre-9/4/1974 Deed #: MIP-79-110-WHF3	Date Filed: 2-13-1979
Current Deed #: 2008~000379	Date Filed: 1-25-2008 3,10PM
The deed and a map showing the property described in the deed(s) must	accompany this application.
SIGNATURES Applicant(s): Jul Garofai	Date: $8-29-2014$ Date: $8-29-2014$
Property Owner(s): July M. Garof.	
Donald Caldunaul	Date: 8/29/14
	Date:
or referenced criteria. Pursuant to ORS 215.428, this office will review the appl deficiencies within 30 days of submission. By signing this form, the property ow for Planning Staff to conduct site inspections on the property. <u>ALL LAND USE APPLICATIONS MUST INCLUDE:</u>	
☐ Application Fee — Cash or Check (credit cards now accepted with addi ☐ Site Plan ☐ Elevation Drawing ☐ Fire Safety Self-Certification ☐ Other applicable information/application(s):	itional fee)
u	
Q	
APPLICATIONS FOR <u>PROPERTIES IN THE NATIONAL SCENIC AREA</u> N	MUST <u>ALSO</u> INCLUDE:
☐ Scenic Area Application/Expedited Review ☐ Color and Material Samples ☐ Landscaping Plan ☐ Grading Plan ☐ Other applicable information/application(s):	•
. 🗖	

Land Use Application



Return to Agenda

APPLICATION FOR CONFIRMATION OF NON-CONFORMING BUILDING & USE

Applicant/Owner:

Joseph Garofoli

Mailing Address:

4408 NE 77th Avenue Portland, OR 97218-3924 (503) 288 2569 Home (503) 252 0974 Work

Site Address:

5320 Orbist Grade Road Map: 1S 12E 18 402

Applicant's Representative:

Leslie Ann Hauer 6100 Collins Road

West Richland, WA 99353

Comprehensive Plan/

Zoning-

Current zoning A-1 Historic zoning A-3

Proposal:

Confirm the non-conforming use status of the cabin destroyed by the Government Flats

Complex fire to allow the cabin to be rebuilt

Exhibits

- 1. Letters from Neighbors
- 2. Assessor's Records
- 3. Wasco County Planning letter, September 17, 2013
- 4. Photos
- 5. Deed records

BACKGROUND

The 2013 Government Flats Complex fire destroyed the buildings located at 5320 Orbist Road, including:

Cabin, 1,192 square feet Outbuilding - 16' x 20' storage shed Outbuilding - 12' x 12' shed

The property was created in 1979, when a 42 acre tract was divided into four parcels of approximately 13.50 acres each.

The exact date when a structure appeared on the site is not known. The evidence compiled to date indicates that a single wide trailer was permanently erected on the site sometime before 1979. A shell covering the trailer was built around the trailer sometime in 1979. The structure was enclosed creating a cabin and an addition added in 1980 or 1981. The structure fist appears on the tax assessor's rolls in 1982. The cabin remained on the property until all buildings were destroyed by fire in August 2013.

APPLICABLE REQUIREMENTS

Chapter 13 Nonconforming Uses, Buildings and Lots 13.050 Verification of Nonconforming Use or Structure 13.060 Restoration or Alteration of Nonconforming Use

DISCUSSION

The following discussion of applicable requirements demonstrates that a residential structure has been on the property since prior to 1993. In fact, Assessor Records show that the dwelling appeared sometime prior to the 1982 Roll and all of the evidence suggests that a structure was located or constructed on the property as far back as 1979. The development chronology, to the best of our knowledge, is as follows:

- A manufactured home was placed on the property shortly after it was purchased by Ferguson in 1979 that was covered by a pole structure.
- Sometime before 1981, the pole structure was enlarged and enclosed to create a cabin.
- By 1982, the cabin appears on the County's tax rolls.
- The cabin remained, unchanged on the property until the fire in 2013.
- The County does not retain building permits for more than two years so it is unlikely that records of a structure established prior to 1982 would still be available.

For these reasons, this application provides evidence to comply with Chapter 13, Section 13,050 and 13.060 of the County Code, but relies primarily on Oregon Revised Statutes 215.130(11). This provision requires a property owner only must submit evidence that a non-conforming use was in place for at least 20 years. Undisputed evidence shows that the residential structure was in place prior to 1993 and there is evidence that a structure, either a manufactured home with a structural cover or an enclosed structure existed on the property as far back as 1980 or 1981.

Chapter 13 Nonconforming Uses, Buildings and Lots Section 13.050 Verification of Nonconforming Use

A use must be consistent with the following provisions to be considered "lawfully established":

A. I. The nonconforming use has not been expanded in size or area or changed in purpose or use beyond what was lawfully established;

The residential building (cabin) at 5320 Orbist Road first appears on the County Assessor Roll, though there is no description of the structure's area until 1999. In that year, the appraisal includes a somewhat more detailed description: 1,192 square feet; one living area, two bedrooms, one bath, one kitchen, one dining room, one fireplace. This description is unchanged until the building's destruction by fire in 2013.

A.2, The property on which the nonconforming use is located meets the definition of legal parcel in Chapter 1 of this ordinance.

The property was created by a land division in 1979, prior to County Ordinance standards requiring larger lots in the A-I/EFU Zone (Exhibit 1).

- A.3. The nonconforming use was lawfully established on or before the effective date of the provisions of this ordinance prohibiting the use verified by either a or b below...
- a, Type I Verification: Lawfully established is verified by non-discretionary evidence including but not limited to zoning approval or County Assessor records verifying the date of establishment. This type of verification is not subject to any review process because it does not involve the exercise of any discretion or judgment. If the applicant wishes documentation of this it shall be done as a Land Use Verification Letter.

- b. Type II Verification: Lacking non-discretionary evidence, lawfully established is verified by a discretionary process consistent with Section 2.060(A)(9). It is the burden of the applicant to provide a preponderance of evidence which will allow the Planning Director to conclude the nonconforming use was lawfully established. Such evidence includes but is not limited to:
- -Utility Bills and Records (phone, power, sewer, water)
- -Aerial Photographs
- -Dated Photos
- -Notarized Letters or Affidavits affirming the date of establishment

The application includes testimony from nearby residents indicating that a structure existed on the property as far back as 1979.

Pursuant to ORS 215.130(11), if the applicant is able to verify the use back at least 20 years, there is a presumption that the structure is a lawful non-conforming use. The residential structure, or cabin, first appeared on Assessor records in 1982, with the notation of construction in 1981. County Assessor records show the continual existence of a cabin on the site through 2012, the last assessment year. In addition to the Assessor records, neighbors familiar with the building and property have provided testimony confirming the cabin's existence. Given the evidence of existence of the cabin since 1993, the County should find that the use was lawfully established.

B. Discontinuance or Abandonment: For a nonconforming use to be verified as lawfully established it must not have been discontinued or abandoned according to the following criteria...

B.2 An abandonment or interruption of a use may arise from the complete cessation of the actual use for a twelve (12) month period even if improvements to support the use remain in place.

This section does not apply and instead the time limits for restoration for structures destroyed by fire are set out in Section 13.060 below. The Government Flats Complex fire destroyed all structures on the property. A letter from Wasco County to affected property owners, dated September 17, 2013, noted that the fire was considered fully contained on September 8, 2013 and that this date would be considered the beginning point for considering abandonment, or restoration or replacement as provided by Section 13.060.A.

Section 13,060 Restoration or Alteration of Nonconforming Use

- A. Restoration or Replacement of a Nonconforming Structure Destroyed by Fire, Other Casualty or Disaster: If a nonconforming structure or a structure containing a nonconforming use is destroyed by fire, other casualty or natural disaster, restoration or replacement shall be permitted subject to the following criteria:
- A.1. Time Limitation: An application is received within twelve (12) months from the occurrence of the fire, casualty or natural disaster....

This application has been submitted within the time specified by the letter from the Wasco County Planning office.

A.2. Size: The restoration of a nonconforming building or structure may not increase the floor area or create a greater nonconformance than existed at the time of the damage or destruction.....

The proposed new cabin will replace the original structure as nearly as possible, within 1,192 square feet.

A.3. Location: The restoration shall be sited on the same footprint as the original structure....

The proposed new dwelling will be located on the foundation of the dwelling that was destroyed.

A.4. Health & Safety: The restoration shall comply with all current health and safety ordinances....

The applicant expects to apply for a building permit and comply with all current regulations in the replacement of the structure that was destroyed.

CONCLUSION

This application demonstrates that a residential structure was constructed on the property located at 5320 Orbist Road before 1981, through clear and non-discretionary evidence from the County Assessor Rolls. This date is prior to County Ordinance limitations on dwellings in the A-1 Zone.

In addition to standards in County Ordinance, ORS 215.130(11) only requires evidence that a non-conforming use has been in place for the preceding 20 years. In this case, there is unquestionable evidence in the form of County Assessor Records, that a dwelling of 1,192 square feet has been in place on the site since 1993, and for at least 11 years before that.

Therefore, a permit should be granted to allow reconstruction of a dwelling on the property, in the location of the structure destroyed by fire.

PDX_DOC5:521784.1

SUPPLEMENTAL INFORMATION FOR APPLICATION FOR CONFIRMATION OF NON-CONFORMING BUILDING & USE

Applicant/Owner:

Joseph Garofoli

Mailing Address:

4408 NE 77th Avenue Portland, OR 97218-3924 (503) 288 2569 Home (503) 252 0974 Work

Site Address:

5320 Orbist Grade Road

Map: 1S 12E 18 402

Applicant's Representative:

Leslie Ann Hauer 6100 Collins Road

West Richland, WA 99353

(509) 967-2074 (509) 539-9992

Comprehensive Plan/

Current zoning A-1

Zoning

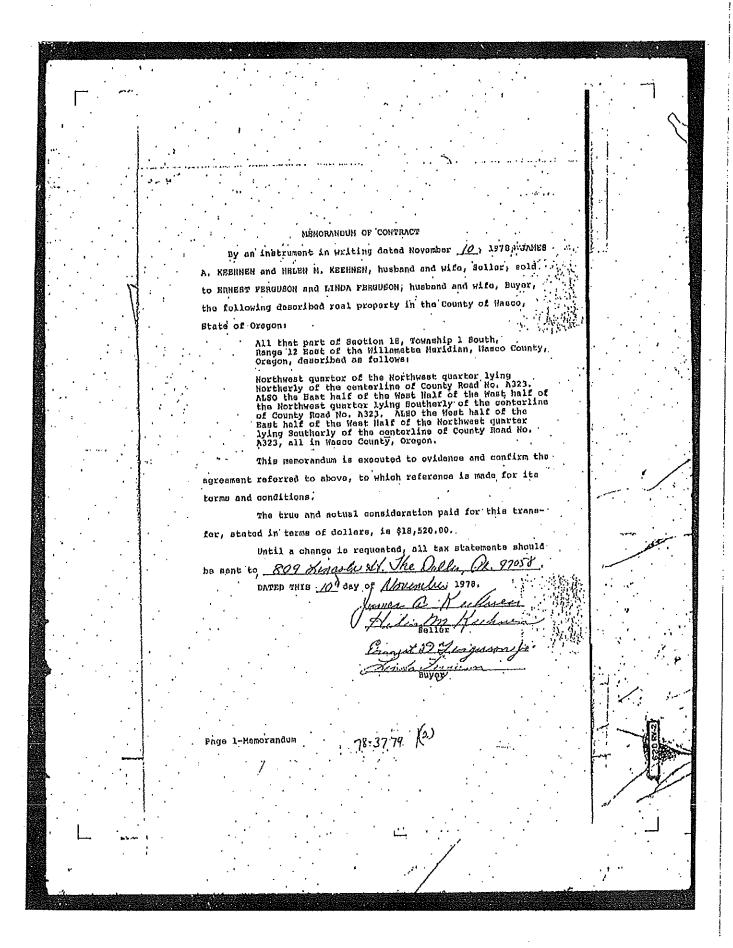
Historic zoning A-3

Supplemental Proposal

The application to re-establish the cabin located at 5320 Orbist Road that was destroyed by the 2013 Government Flats Complex fire included information to demonstrate that the residential structure had been on the property prior to 1993.

This supplemental submission includes two modifications to the initial request;

- 1. The cabin is proposed to be turned approximately 20 degrees, as shown on the site plan, to be better oriented to the views.
- 2. The cabin is proposed to be somewhat larger than the original structure, with an increase in dimensions from 24' x 50' (area of approximately 1,200 square feet) to 32' x 58' (area of approximately 1,856 square feet.



Carrie Richter

From:

garofolitypejo@juno.com

Sent:

Monday, August 11, 2014 10:03 PM

To:

Carrie Richter

Subject:

Fw: Re: Wasco Cabin burn out.

Carrie Lori and Tom Griffith have the property next to mine. I believe thy bought it in 1978 they have a cabin on it. This is what they remember.

Joe G.

Lori This helps a lot. The tax records show a structure in 1981 which confirms your date. Yes I have been paying taxes on buildings. The tax man adjusted my property value down 36K with the loss of structures. even gave me some money back for 2013.

Thanks again.

Joe Garofoli

Joe,

We recall that a "shell" as in shelter was built around a single wide trailer sometime in 1979. No permits or septic or real structure, just a shell.

Ernie Ferguson did add on an addition in 1980 or 1981.

That's all we know. Have you been paying taxes on a structure? I know that Mr Teven had some problems with that, but he has since passed away.

Best of luck to you.

We didn't attend the Blues Festival. Maybe we'll enjoy it next year.

Take care,

Lorie and Tom Griffith

In 2009 I was doing a slewy for the US Census Beautr I was a assigned to Survey Oberick Poso, too ting the houses blong the read. I Remember this rouse. It was a rectangular building blue in color. It boked like a double wide trailer that had a frame built around it, there was an out building along the road.

Bocky Nolson 1859 Slajene Rod The Doller, OR 541.993.4385 THE FIRST TIME I SAWTHE HOUSE LOCATED AT 3320 OBRIST RD. THE DACKES OR, IN JUNE 1983, IT WAS A ONE STORY CABIN.

Frank Kinsen ... 6600 SKYLINERD THE DALCES, OR, PH. 980-2559 THE HOUSE AT 5320 OBLIST RO.

IN MAY OF 1989. It was
A LIVEABLE STRUCTURE FOR ACTON

AND WIFE WORE LIVING IN IT AT

The Time.

8-16-14

	FUND 201	BUD 2015	Actuals 2015	County contribution distribution	Program Revenue	Restricted Revenue	Unrestricted Revenue	Net Totals	
1201	I NON-DEPARTMENTAL INTEREST EARNED	1000	1,201				1,201		
7141	State Federal	10,400	13,000 0			13,000 0			
Total \$571,568	Sherman County Gilliam County Wasco County All Other (Program Fees, PR Reimb., Misc.)	97,194 98,656 376,222 81,547	97,194 98,656 375,717.80 88,522		88,522		97,194 98,656 375,718		
	Total Program Revenue (excludes county funding) Total Expenditures	91,947 559,340 (467,393)	101,522 479,258 (377,736)					(377,736)	(County Contribution)
	5 programs/services - 3 mandated Vital records, Sewage disposal, Construction permits (Co. Support for Onsite prog. \$16,041, Vital Records \$1501) Total GF Support (Director, Health Officers, Management, Admin staff, materials & services)			\$377,736					
7142	WIC State		0			0			=
	Federal All Other Total Revenue	173,808.00	165,716 1,843		1,843	165,716			
	Total Expenditures (Diet. Serv \$2275; Cost Alloc \$11,737; Off Sup \$2380 - over budget)	173,808.00 166,909.68 6,898	167,559 187,275 (19,717)					(19,717)	(MAC)
	1 mandated service Women, Infants and Children Nutrition Program Co. Support (.14 FTE Dir \$14,223)			\$ 0					_
7143	CAH State	8,786	19,893			19,893			_
	Federal	29,730	26,692			26,692			
	All Other	45,000	14,983		14,983				
	Total Revenue	83,516	61,568						
	Total Expenditures	123,805	121,975					,	/a a
	(Cost Alloc adjusted; soft. maint transferred from 7148)	(40,289)	(60,407)					(60,407)	(Co Cont, CMS, MAC)
	3 programs/services - 2 mandated: Immunizations, Home visits		40%						
	Co. Support (.04 FTE Dir \$4064)		40 /0	\$34,213					

7111	FUND 201 WOMEN'S HEALTH	BUD 2015	Actuals 2015	County contribution distribution	Program Revenue	Restricted Revenue	Unrestricted Revenue	Net Totals	
7144	State Federal All Other Total Revenue Total Expenditures (Cost Alloc adjusted; soft. maint transferred from 7148)	45,000 38,530 225,595 309,125 372,028 (62,903)	198,328 56,135 53,671 308,134 390,411 (82,277)		53,671	198,328 56,135		(82,277)	(Co Cont, CMS, MAC)
7145	2 programs/services - 2 mandated: Family Planning, Breast & Cervical Cancer Co. Support (.17 FTE Dir \$17,271) STATE SUPPORT	(02,903)	55%	\$47,043				(02,211)	(CO COIII, CINIS, IVIAC)
7140	State Federal All Other Total Revenue Total Expenditures (Cost Alloc adjusted; soft. maint transferred from 7148) 3 programs/services - 3 mandated: Exams & treatment for Sexually Transmitted disease, Communicable Disease, Tuberculosis	33,800 308 13,600 47,708 47,170 538	36,632 494 6,653 43,779 49,118 (5,339)		6,653	36,632 494		(5,339)	(Co Contr & CMS)
7146	Co. Support (.02 FTE Dir \$2032) ENVIRONMENTAL HEALTH			\$4,276					
	State Federal All Other Total Revenue Total Expenditures	0 0 94,300 94,300 68,314 25,986	0 0 103,228 103,228 96,904 6,324		103,228	0		6,324	
	4 programs/services - 4 mandated Food Handlers, temporary food licenses, child care inspections, licensed facilities inspections Co. Support (.04 FTE Dir \$4064)			\$ 0					
7148	PERINATAL State Federal All Other Total Revenue Total Expenditures (Medicaid Adm. Claiming) 3 programs/services - 2 mandated	4,682 17,000 73,000 94,682 80,245 14,437	2,341 10,841 111,829 173,311 82,478 90,833			2,341 10,841	111,829	90,833	
	Maternity Case Management, home visiting, Home Visiting Network Co. Support (.01 FTE Dir \$1016) MAC match			\$48,300					

	FUND 201	BUD 2015	Actuals 2015	County contribution distribution	Program Revenue	Restricted Revenue	Unrestricted Revenue	Net Totals	
7149	BIOTERRORISM								
	State	3,500	3,500			3,500			
	Federal	156,474	156,522			156,522			
	All Other	0	0						
	Total Revenue	159,974	160,022						
	Total Expenditures (balance in MPC)	167,928	160,220					(400)	
	(balance is MRC)	(7,954)	(198)					(198)	
	3 programs/services - 1 mandated Public Health Emergency Preparedness								
	Co. Support (.06 FTE Dir \$6095)		-	\$0					
7150	HEALTH PROMOTION			ΦU					
7132	Grant Funding	44,486	36,147			36,147			
	Federal	0	0,147			0			
	All Other	0	0			O			
	Total Revenue	44,486	36,147						
	Total Expenditures	44,399	46,348						
	(EOCCO pmt \$8446.30 on 7/1/15; HWC grant pd in 2014, exp in 2015)	87	(10,201)					(10,201)	(Grant)
	Not mandated		(10,00)					(10,=01)	(- : - : : .)
	Co. support - none								
7153	IMMUNIZATION SPECIAL PAYMENT								
	State	8,909	8,971			8,971			
	Federal	9,509	8,971			8,971			
	All Other	0	0						
	Total Revenue	18,418	17,941						
	Total Expenditures	15,701	17,941						
		2,717	0					0	
	1 mandated program/service								
	Immunizations and vaccine tracking								
	Co. Support (.01 FTE Dir \$1016)			\$0					
7154	CACOON & CCN								
	State	23,800	54,341			54,341			
	Federal	0	0			0			
	All Other	0	200		200				
	Total Revenue	23,800	54,541						
	Total Expenditures	32,042	30,335					0.4.000	
	(Now tracking Cacoon TCM in 7154)	(8,242)	24,206					24,206	
	2 program/services, 1 mandated								
	Care Coordination of children with special health needs			ФО.					
	Co. Support (.02 FTE Dir \$2032)			\$0					

		DUD		County	Program	Restricted	Unrestricted		
	FUND 004	BUD	Actuals	contribution distribution	Revenue	Revenue	Revenue	Net Totals	
	FUND 201	2015	2015	distribution					
7155	TOBACCO	400.000	0			0			
	State Federal	132,266	0			0			
	All Other	0	02.666			0			
	Total Revenue	0 132,266	93,666			93,666			
	Total Expenditures		93,666 94,250						
	Total Experiultures	145,374 (13,108)	(584)					(584)	
	1 mandated program/service	(13,100)	(304)					(304)	
	Tobacco Prevention & Education								
	Co. Support (.05 FTE Dir \$5080)		ſ	\$0					
7156	Water			ΨΟ					
7 100	State	13,488	17,394			17,394			
	Federal	28,696	24,789			24,789			
	All Other	0	0			,			
	Total Revenue	42,184	42,183						
	Total Expenditures	44,254	40,669						
	·	(2,070)	1,514					1,514	
	1 mandated program/service								
	Monitoring Water Systems								
	Co. Support (.01 FTE Dir \$1016)			\$0					
7158	BABIES FIRST			_					
	State	85,825	194,577			194,577			
	Federal	0	0			0			
	All Other	0							
	Total Revenue	85,825	254,577						
	Total Expenditures	142,997	181,296						
	(Targeted Case Management - includes 2014 fees)	(57,172)	73,281					73,281	
	1 mandated program/service								
	Case Management for infants with health risks			# 00.000					
7450	Co. Support (.08 FTE Dir \$8127) TCM Match			\$60,000					
7159	OREGON MOTHERS CARE State	0	2.024			2,034			
	Federal	0 8,701	2,034 6,104			2,034 6,104			
	All Other	0,701	0,104			0,104			
	Total Revenue	8,701	8,138						
	Total Expenditures	12,552	13,286						
	Total Experiatores	(3,851)	(5,148)					(5,148)	(MAC)
	Not mandated	(0,001)	(5, 146)					(0, 140)	(1417 (0)
	Assist eligible pregnant women with Oregon Health Plan								
	Co. Support (.01 FTE Dir \$1016)			\$0					
7500	DEQ PASS THROUGH		·	, ,					
	State	0	0						
	Federal	0	0						
	All Other	3,900	12,000			12,000			
	Total Revenue	3,900	12,000			•			
	Total Expenditures	3,900	12,000						
		0	0						
	Not mandated								

	FUND 201	BUD 2015	Actuals 2015	County contribution distribution	Program Revenue	Restricted Revenue	Unrestricted Revenue	Net Totals
7207	HOUSEHOLD HAZARDOUS WASTE							
	State	0	7,500			7,500		
	Federal	0	0			0		
	Local	7,200	7,200		\$7,200			
	All Other	304,000	167,733		167,733			
	Total Revenue	311,200	182,433					
	Total Expenditures	479,739	267,563					84,679 2014 end bal
	Carryover from 2014 \$84,679.07	(168,539)	(85,130)					(85,130) 2015 end bal
	not mandated							(450)
	Collection & disposal of hazardous materials		_		_			
	Co. Support (.19 FTE Dir, .10 FTE Bus Mgr, .23 FTE EH Supr)			\$0				
				^		.	 .	
	Totals		673,090	\$571,568	\$444,033	\$1,156,587	\$684,598	\$2,285,218.48
					19%	51%	30%	

Total Gilliam, Sherman, & Wasco Co.

571,568

	Program Support:		Co support	
7141	Septic Systems	Site evals, repair & contruction permits		
7141	Vital Records	Birth & Death certified copies	\$377,736	
7141	Admin	Director, Health Officers, Supervisiors, Admin staff, materials &	7577,750	
		services		
7142	WIC	Assessment, nutrition and health education and counseling, food		
		vouchers, referrals, monthly classes	\$0	
7143	CAH - Immunization Services	Provide immunizations on a walk in basis	\$34,213	
7144	Women's Health	Exams, pregnancy testing & counseling, birth control info., etc.	\$47,043	
7145	State Support	Communicable & Sexually Transmitted Diseases exams &		
		treatment: TB case monitoring	\$4,276	
7146	EH Services	Restaurant & facility inspections, Water system inspections	\$0	
7148	Perinatal	Home visits by public health staff during pregnancy and after the	4	
		baby is born.	\$48,300	Medicaid Admin Claim local match
7149	PHEP & CD	Public Health Emergency Response; Communicable Disease		
		Surveilliance and response	\$0	
7152	Health Promotion	NCPHD is partnering with schools, community groups and families	\$0	
7153	Immun Special Payment	Education about and administration of vaccines; public education;		
		enforcement of school immunizations; technical assistance for		
		healthcare providers who provide vaccinations.	\$0	
7154	Cacoon & CCN	Multidisciplinary team collaboration & home visiting for children		
		and youth with special health needs.	\$0	
7155	Tobacco Ed & Prev	Reduce youth access to tobacco products; Create additional		
		tobacco-free environments; Decrease advertising and promotion		
		of tobacco products; Link to already existing cessation programs	\$0	
7156	Water	Sampling, monitoring, & tech. assist. for public water systems; TA		
		for private water systems; water borne disease investigation'	\$0	
7158	Babies First	Case management for Babies First clients.	\$60,000	Targeted Case Mgmt local match
7159	OMC	Assists women in accessing early prenatal care and Oregon Health		

\$571,568

PERSONAL SERVICES CONTRACT FOR RESTROOM AND SITE MAINTENANCE AT PINE HOLLOW RESERVOIR

This Personal Services Contract made and entered into between WASCO COUNTY, OREGON, herein referred to as COUNTY, and Lee Hazel, hereinafter referred to as CONTRACTOR.

WHEREAS, the COUNTY is currently choosing to maintain the South Shore Parking Lot, Boat Ramp and Vault Toilet; and

WHEREAS, the COUNTY has received a proposal from CONTRACTOR to perform the necessary maintenance of the South Shore public toilets and the South Shore boat ramp and parking lot located at the Pine Hollow Reservoir; and

WHEREAS, the COUNTY feels it is in the public's interest that the COUNTY contract for these services in order to keep these public facilities open to the public, at a minimum, during the months of July through September, 2015.

NOW, THEREFORE, in consideration of the terms, conditions and covenants herein stated, it is agreed as follows:

- 1. The COUNTY assumes responsibility for and agrees to:
 - a. Pay the CONTRACTOR for maintenance of the Pine Hollow Reservoir's South Shore public toilets, and the South Shore parking lot and boat ramp for the period of July 1, 2015, through September 30, 2013, for a total amount of \$3,000; \$1,000 payable monthly on the last day of the month; and
 - b. The COUNTY will, at their discretion, may choose to be responsible for pumping the vault toilet. The public toilets will be inspected randomly by Wasco County with no advanced notice.

2. The CONTRACTOR agrees to:

- a. Furnish necessary labor, materials, equipment, transportation, and supervision to perform all necessary maintenance activities at Pine Hollow Reservoir's South Shore parking lot, boat ramp and vault toilet.
- b. The toilet maintenance, shall include, but is not limited to:
 - Remove trash;
 - 11. Sweep and hose out or mop floors;
 - iii. Refill toilet tissue dispensers;

- iv. Clean and disinfect all surfaces, toilet seats, urinals,
 walls, floors and other appropriate surfaces;
- v. Remove cobwebs from corners, ceilings, etc.; and
- vi. Replace light bulbs as necessary.
- c. Litter control, shall include, but is not limited to:
 - Litter patrol of entire site (South Shore parking lot, boat ramp and South Shore toilets); and
 - ii. At least one garbage can will be located on site adjacent to the toilets and will be secured to prevent theft.
- d. South Shore Boat ramp maintenance, shall include, but is not limited to:
 - The South Shore boat ramp will be kept clear of debris;
 and
 - ii. Fishing from the boat ramp area will be prohibited.
- e. South Shore Parking Lot maintenance, shall include, but is not limited to:
 - i. The parking lot will be kept clear of debris.
- f. The Contractor shall furnish all necessary supplies and equipment necessary to perform maintenance activities, including not limited to toilet paper, cleaning supplies, garbage cans and liners.
- 3. It is mutually agreed that:

- a. The term of this Contract shall be from July 1, 2015, through September 30, 2015. Either party may terminate this agreement upon providing a thirty (30) day written notice to the other party.
- b. The COUNTY agrees to reimburse CONTRACTOR for expenses incurred prior to the signing of this agreement from July 1, 2015 forward.
- c. The CONTRACTOR is acting as an independent contractor herein and no provision hereof shall be interpreted as creating an employee relationship.
- d. The CONTRACTOR agrees to abide by all applicable State and Federal laws.

DATED this 16th day of September, 2015.

Contractor

WASCO COUNTY BOARD OF COMMISSIONERS

Lee Hazel / Date / 5	Scott C. Hege, Commission Chair
Approved as to Form	Rod L. Runyon, County Commissioner
Kristen Campbell Wasco County Counsel	Steven D. Kramer, County Commissioner

Wasco County Planning Department



"Service, Sustainability & Solutions"

2705 East Second St. • The Dalles, OR 97058 (541) 506-2560 • wcplanning@co.wasco.or.us www.co.wasco.or.us/planning

September 16, 2015

Rob Hallyburton, Community Services Division Manager & Katherine Daniels, AICP, Farm and Forest Lands Specialist, Community Services Division Oregon Dept. of Land Conservation and Development 635 Capitol Street NE, Suite 150 Salem, OR 97301-2540

Subject: Requesting Participation in Multi-County Code Update Project

Mr. Hallyburton and Ms. Daniels,

As you know, the Wasco County Planning Department is developing the scope of several long-range planning projects, including an assessment and update to the Wasco County Land Use and Development Ordinance (WCLUDO). In response to Mr. Hallyburton's August 6, 2015 email invitation, we would like to formally request participation in the 2015-2017 DLCD Multi-County Code Update Project to receive assistance with updates to the Exclusive Farm Use and Forest zones of the WCLUDO.

The County's Comprehensive Plan was acknowledged by LCDC in 1983 and limited updates have been made to these chapters in the WCLUDO as recently as 2012. There are many elements left to address however, as well as a significant need to review the differences between State and Local ordinance regulations. In addition, we are looking for update opportunities to ensure the Wasco County land use application process is as streamlined and clear as possible for our customers. With other future updates on the horizon, this project would provide Wasco County with a template format and model process to pursue the additional updates with efficiency and timeliness.

Thank you for your consideration of this request.

Sincerely,

Angie Brewer, AICP Planning Director

Scott Hege, Chair

Wasco County Board of County Commissioners

Steve Kramer, Commissioner Wasco County Board of County Commissioners Rode Runyon, Commissioner
Wasco County Board of County Commissioners

DEPELOP WINT

Wasco County Planning Department

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September 16, 2015

Jim Rue, Director &
Rob Hallyburton, Community Services Division Manager
Oregon Dept. of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

Subject: Technical Assistance Grant Application Letter of Support

Mr. Rue & Mr. Hallyburton,

In response to your notice of 2015-2017 Technical Assistance Grant Opportunities, we formally submit this letter of support as part of our Grant Application.

Over the past year Wasco County has begun the reorganization process of its post-recession permitting and development functions. Poised to capitalize on its location and abundance of natural resources, Wasco has found that well-planned and coordinated economic development efforts can be incentivized through clear and expedient development review processes. We have prioritized this effort by investing in staff and believe the State can be an effective partner in supporting these efforts through Technical Assistance.

Through its Technical Assistance, the State's experience along with its agency resources can be leveraged to create and capture development opportunities and improve the County's level of service to its corporate and citizen stakeholders.

Thank you for your consideration of this request.	
Sincerely,	
Scott Hege, Chair	
Wasco County Board of County Commissioners	
Steve Kramer, Commissioner	Rod Runyon, Commissioner
Wasco County Board of County Commissioners	Wasco County Board of County Commissioners

Gentlemen, as you know there have been issues associated with Pine Hollow Reservoir/Recreation Area for many years. Issues with bandages but without true outcomes – it is time to move that to resolution. As part of my commitment to Wasco County to become one County, I have brought together stakeholders to address and find solutions to the existing challenges. As part of that effort, I have offered County resources to work with us; Mr. Stone to facilitate; the skill and expertise of our County Surveyor, GIS and Planning Department, Public Works, Assessor and County Clerk's Offices. Also in the mix we have engaged local citizens and our State partners – ODFW, Regional Solutions and the State Marine Board.

I am committed to working with all parties involved to identify solutions, but this work is not without cost. We have tentative commitments from Badger Creek Irrigation District, Wamic Rural Fire Foundation and South Wasco Alliance. I respectfully request approval for up to \$5,000 from our Special Project Fund to facilitate the important work being done to find solutions that will help strengthen our overall County community.

Public Health in our Community

North Central Public Health District



Teri Thalhofer, RN, BSN Public Health Director

Annual Report 2014 / 15

419 E. 7th Street The Dalles, Oregon 97058

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Letter from Director



NORTH CENTRAL PUBLIC HEALTH DISTRICT

"Caring For Our Communities"

September 2015

To the Residents of Wasco, Sherman and Gilliam Counties:

North Central Public Health District (NCPHD) is truly dedicated to living our motto, "Caring For Our Communities". Public Health works to create an environment where every citizen can reach their full potential for health and well being.

Most of us expect that our food, water and air will be free of disease and that our government will help to protect our health. NCPHD was formed through an intergovernmental agreement among Gilliam, Sherman and Wasco Counties and serves the three county region. NCPHD is governed by a Board of Health consisting of one County Commissioner and two public members from each of the three counties. The Board of Health is the Local Public Health Authority, and is responsible for assuring that the residents of the District receive the essential population health services mandated by law.

Our public health programs focus on prevention—preventing unintended pregnancy, malnutrition, low birth weight babies, outbreaks of disease, tobacco use, and poor response to public health emergencies. Public health is not just for the most vulnerable members of our communities, but for all who live, work and play in the region. I encourage you to read on to find out how.

We don't do this work alone, but rather in collaborative partnership with others across the region. Included is a list of activities we participate in with our partners to improve the health of our communities.

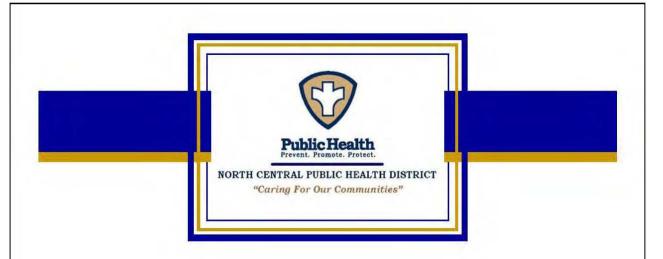
Thank you for taking the time to read this report and we look forward to continuing to serve the communities.

Sincerely,

Teri L. Thalhofer, RN, BSN

Juf. Thalhofox, RN. BSN

Director, NCPHD



Vision Statement

We strive so that one day all people will live in a safe environment free from fear of preventable diseases; that all businesses, organizations and individuals will have access to health information and have the desire to promote and be responsible for a healthy lifestyle for themselves and each other.

Mission Statement

We promote health and protect against disease to ensure the optimal health and well-being of the communities we serve.

Values

Our community shall be guaranteed access to confidential and professional public health services and shall be treated with respect while honoring individual diversity.

We conduct ourselves by always remembering:

- We relate to each other with respect and cooperation.
- We strive to communicate openly and with clarity.
- We conduct and present ourselves with the highest level of professionalism, accountability and integrity.
- We believe that a collaborative approach with community partners is the most productive and enjoyable way of doing business.
 - We believe in the value of continuous improvement and seek opportunities for personal/professional growth.
- We take pride in what we do and strive for the highest possible standards.

Department Personnel



NCPHD Board Members

Commissioner Michael Smith, Chair (Sherman County) Roger Whitley (Sherman County)

Linda Thompson (Sherman County)

Judge Steve Shaffer (Gilliam County)

David Anderson (Gilliam County)

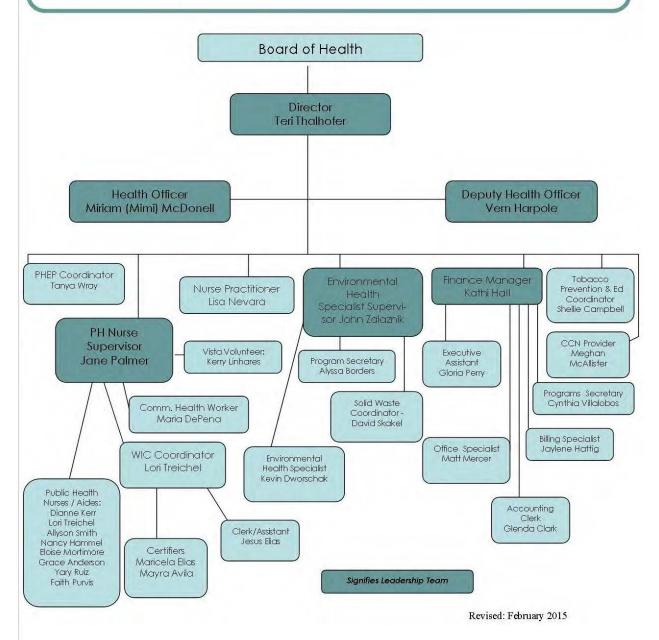
Michael Takagi (Gilliam County)

Commissioner Steve Kramer (Wasco County)

Fred Schubert, Vice-Chair (Wasco County)

William Hamilton (Wasco County)





Public Health in Wasco, Sherman, Gilliam Counties

Protecting Our Communities from Disease

- 393 inspections were done in restaurants, schools, RV parks, pools, spas and organizational camps
- 581 members of our communities were vaccinated against preventable disease
- 502 reportable diseases were investigated
- 11 outbreaks were contained

Working Toward Healthy, Prepared Communities

- The Public Health Emergency Preparedness Program (PHEP) Coordinator provided 30 trainings to help the community prepare for a public health emergency
- The Tobacco Prevention and Education (TPEP) Coordinator provided 5 presentations to community groups around flavored tobacco products and E-cigarettes; worked with Columbia Gorge Community College student government to strengthen and adopt a new tobacco policy: worked with MCMC, City of The Dalles and North Wasco Parks and Recreation District to strengthen and expand tobacco and smoke free policies.

Working Toward Healthy Families

- 90 Pregnant women were connected to Oregon Health Plan, pre-natal care and other services
- 4212 Clients received nutrition education and food vouchers through the Women,
 Infants and Children (WIC) program
- 121 Pregnant women, children at risk of developmental delay, and children with special health care needs received 537 home visits to provide education, parenting support, developmental screening, connection to services and case management
- 615 women and men were served in the Family Planning Program last fiscal year,
 working to prevent unintended pregnancies

Community Disease Prevention & Protection

COMMUNITY NEED: Communicable (infectious) diseases can spread quickly throughout a population. Some disease can cause severe illness, untimely death, and chronic disability, as well as costly treatment.

PUBLIC HEALTH RESPONSE: Protecting people from communicable disease is a basic public health service that improves health and saves money by preventing the need for costly medical care for disease and its complications. Public health nurses and other staff investigate the causes of disease and alert the public to prevent exposure or to seek treatment. Public health clinics provide certain medical services, such as immunizations, HIV tests, and testing and treatment for sexually transmitted infections, as a safety net for those who have difficult accessing medical care because of financial or other barriers. Through education, training and regulation, disease outbreaks can be prevented.

Protection through Immunizations

COMMUNITY NEED: Infants and young children are vulnerable to vaccine-preventable diseases. Older persons and those with suppressed immune systems (such as persons undergoing cancer therapy or those who have had an organ transplant and are taking immune suppressing drugs) are also at increased risk from contagious diseases. Having sufficient people vaccinated in a population helps to create a 'herd' immunity that protects those too young or too ill to vaccinate.

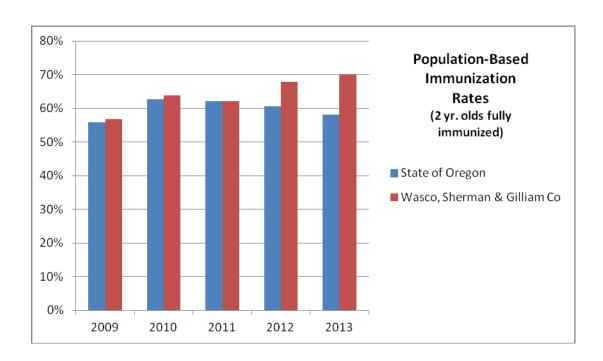
PUBLIC HEALTH RESPONSE: Vaccines are offered from birth through adulthood. These vaccines prevent disease from diphtheria, tetanus, pertussis, polio, chickenpox, shingles, measles, mumps, rubella, hepatitis A, hepatitis B, haemophilus influenza typeb, pneumonia, influenza, human papillomavirus (which can cause genital cancers and warts), rotavirus, and meningococcal disease. Special clinics and campaigns are offered to improve the rates of immunizations. During last fiscal year, NCPHD provided 610 visits to community members to provide vaccines.

ACTIONS TO INCREASE IMMUNIZATION RATES: School Exclusion: According to Oregon State law, any child who is not up-to-date on Exclusion Day, the third Wednesday in February, will not be allowed to attend school or daycare until the needed immunizations and/or records are brought up-to-date. During the 2014-2015 fiscal year 160 letters were mailed to families informing them of impending exclusion, but only 29 were excluded. That compares with the previous year when 192 letters were sent and 40 children were excluded

from school on the third Wednesday of February. Most children received the required immunizations to return to school. Some parents chose to sign a religious exemption in order for the child to return to school. This decrease in exclusions is likely due to greater messaging around the changes to the Religious Exemption law to both parents and providers, and partnership with local schools.

COMMUNITY CLINICS: Immunizations were available Monday –Friday 8:30-12 and 1-5 at the NCPHD office in The Dalles throughout the 2014-2015 fiscal year. Additional clinics were held twice at the Arlington Clinic. The NCPHD Immunization Program also worked closely with the Condon Clinic to ensure that the Vaccines for Children Program (VFC), a program that provides no-cost immunizations to uninsured children and children on the Oregon Health Plan (OHP), was available in Gilliam Counties.

POLICY WORK AND COMMUNITY OUTREACH: In NCPHD, as in all of Oregon, complete immunization up-to-date rates for 2 year olds have been falling. This trend puts our most vulnerable children at risk for vaccine preventable disease. There are many theories about the falling rates, but the evidence shows that it is tied to large volumes of inaccurate information about the risks associated with vaccines that can be found on the internet and social media. NCPHD staff work in partnership with local and state providers to reverse this trend. We provided information and outreach last year at County Fairs, WIC clinics, Story Time at the library in The Dalles, and other local community events. We provide consultation and technical assistance to local primary care providers on a regular basis. Our health officers have been active in policy work through the Coalition of Local Health Officials Health Officers Caucus. The Caucus worked to strengthen Oregon's Religious Exemption law to include a required education component before parents could choose opt out of vaccination using this exemption.



Communicable Disease Investigation & Control

COMMUNITY NEED: We tend to take for granted that we will not become ill from the food we purchase and the water we drink. We also expect to have little exposure to many diseases that are no longer common in the population, due to public health measures and vaccines. However, sometimes the control measures break down, and people get sick, or a new emerging infection appears (e.g. Ebola). Worldwide travel is common, and new infections can spread quickly.

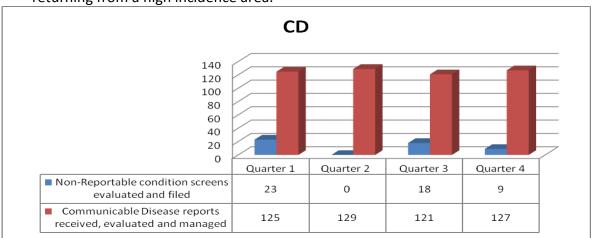
PUBLIC HEALTH RESPONSE: Physicians and labs are required by law to report to their local health department over 50 communicable diseases and conditions, such as E. coli, Tuberculosis, Salmonella, Hepatitis A and sexually transmitted diseases such as Chlamydia and Gonnorhea. Our Communicable Disease Program is responsible for the investigation of all these reported diseases, both confirmed and suspected. We have a nurse available 24/7 to take these reports.

Follow up investigations can be as simple as one or two phone calls, or involve hours, to days of work and multiple staff, depending on the disease and number of people who have come in contact with the infected person. In our investigation process, we may be seeking the source of the infection, (e.g. food, water or another person), finding all those who have been exposed, and assuring that those who are exposed get appropriate health care and advice to prevent further spread of the disease.

In addition to investigation of communicable diseases, NCPHD offers testing for sexually transmitted infections including HIV, and Tuberculosis.

Highlights:

- In 2014-2015 there were 10 Outbreaks of Communicable Disease in Wasco County and 1 in Gilliam County
- Spring of 2015 brought Ebola to the United States and the CD team, in partnership with Public Health Emergency Preparedness spent many hours working with community partners across the region to prepare for a case of Ebola, or a community member returning from a high incidence area.



Food, Pool, and Traveler's Safety

COMMUNITY NEEDS: Communities expect that their visitors will have clean and safe accommodations. They expect that public pools and spas will be free of disease causing germs. They expect that restaurants, schools, organizational camps and day care facilities will serve food safely. Communities also expect that day care facilities will be free of environmental injury risks.

In addition, there are circumstances that require special attention to maintain safety. The high turn -over rate of personnel in the food service industry creates the need for ongoing food safety training. Also of concern is the number of 'casual' food handlers. During the spring, summer and early fall, food focused fund raising events are hosted by volunteers who are tasked with serving food safely without the benefit of a licensed kitchen and professional staff.

PUBLIC HEALTH RESPONSE: Virtually every person residing in or traveling to Gilliam, Sherman and Wasco Counties benefitted from the NCPHD's efforts to protect the public's health. Restaurants were inspected twice a year. Online food handler classes were promoted. Temporary and benevolent permits were issued along with consultation and technical assistance to ensure safe food handling practices. In addition, technical assistance was provided to organizational camps prior to the start of their operational year to prevent and contain outbreaks of illness among campers.

Drinking Water Protection & Safety

COMMUNITY NEED: People who consume water from public water systems expect that the water is safe to drink. There is the potential for serious health problems if drinking water is contaminated by chemicals or microbes (bacteria, viruses, and/or parasites). Water contamination may result in illness or even death. Disease outbreaks are usually linked to bacteria or viruses, probably from human or animal waste.

In Oregon there are many private wells and springs used by one or two homes. No public health resources are funded to assure the safety of these home water sources. The risks of these sources may only be considered after members of a household are diagnosed with a reportable communicable disease that may have come from contaminated drinking water.

PUBLIC HEALTH RESPONSE: Public Health services are intended to assure good quality water, i.e. "water which is sufficiently free from biological, chemical, radiological or physical impurities such that individuals will not be exposed to disease or harmful physiological effects".

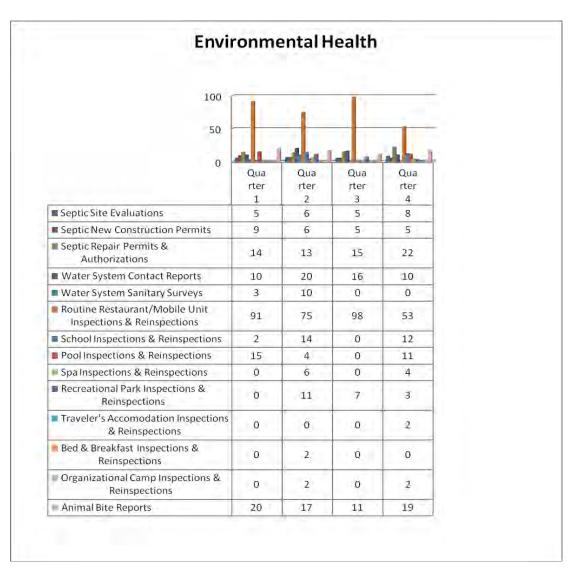
NCPHD has oversight over small public water systems in the District (serving 4 or more connections or <3000 users). Services in the drinking water program primarily help public

water system operators sort through the maze of rules which help to assure the quality of the drink water. Water system operators are required to take steps to physically protect the water and regularly sample for potential contaminants. If problems are noted, our staff work with the water system operators to assure that water users are notified of risks, and problems are corrected.

Last year, NCPHD staff also work with the Incident Command staff of the Rowena Fire to protect small public water systems within the incident.

NCPHD has no regulatory role with **private systems.** However, information is offered to empower residents using private wells or streams to obtain safe drinking water, including brochures about ensuring and developing safe drinking water sources.

NCPHD also works to ensure the ground water remains safe through the subsurface (septic system) and solid waste programs. The subsurface program works with local land owners, developers and installers to ensure that solid waste disposal is done in a safe manner.



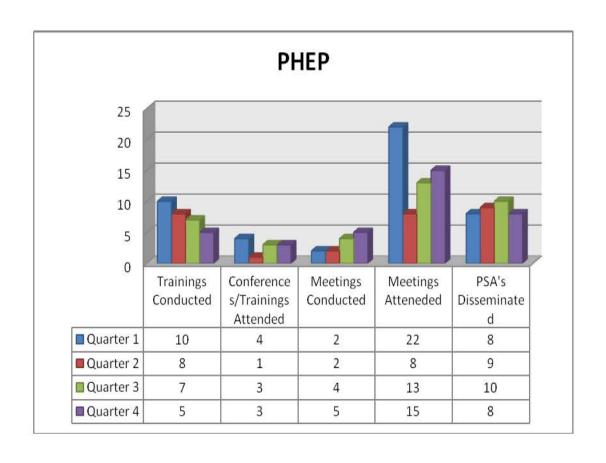
Public Health Emergency Preparedness and Response

COMMUNITY NEED: People living in or visiting Gilliam, Sherman and Wasco Counties could be at risk of physical harm or even loss of life as a result of natural and man-made disasters including wildfire, winter storm, wind storms, chemical spills and pandemic illness.

PUBLIC HEALTH RESPONSE: The NCPHD PHEP program, in partnership with the Emergency Managers in Gilliam, Sherman and Wasco Counties, coordinate the health and medical response functions during a declared emergency or public health event. During the last fiscal year, the program focused on continuing to strengthen the Medical Reserve Corp, a group of local volunteers receiving training to respond to a local or statewide emergency. The program also worked to convene partners in Emergency Medical Services (EMS), law enforcement, and the local medical providers to coordinate the local response plan for Ebola. Meetings were held across the District to provide information and seek input from a variety of partners. Through the end of the fiscal year, NCPHD did not experience a case of Ebola, nor did we have a person under monitoring (PUM) within the District. Work continues with the partners convened around this emerging disease to continue to prepare for emerging infectious diseases.

ADDITIONAL PROGRAM HIGHLIGHTS

- The PHEP Coordinator worked with partner agencies during the summer wildfire season across the NCPHD region regarding air quality, affected water systems, shelter inspection and coordination, Oregon Smoke conference calls, and acted as a liaison between MCMC, NCPHD and County Emergency Managers
- The PHEP Coordinator applied for and received a MRC Capacity Building Grant.
- The PHEP Coordinator applied for and received notice of award for State Homeland Security Grant to purchase a tent / trailer for MRC members for First Aid.
- Performed annual Fit Testing for all staff.
- Promoted Do1Thing Project for staff at meetings, and community through bulletin board.
- Organized and participated in the 2nd annual MRC Blanket Drive to benefit The Warming Place in The Dalles
- Participated in the Northwest Cherry Festival Safety Fair, created and distributed earthquake preparedness information in partnership with MRC at the premier of the movie San Andreas in The Dalles.



Chronic Disease Prevention

Chronic Disease Prevention Services

COMMUNITY NEED: Gilliam, Sherman and Wasco Counties, as elsewhere in Oregon and the United States, are facing and epidemic of chronic disease that threatens to overwhelm our resources. Oregon chronic disease data from 2010-2013 tells us that residents of Gilliam, Sherman and Wasco Counties have rates of heart attack, arthritis and asthma above the Oregon average. The data also shows us that residents engage in behaviors that put them at risk for chronic disease more often than Oregonians on average, including drinking seven or more sodas a week, smoking cigarettes, using smokeless tobacco, consuming fewer than 5 fruits or vegetables per day, and maintaining a weight considered obese.

Tobacco Prevention and Education Program

COMMUNITY NEED: Tobacco is the single greatest preventable cause of disease and death. For every person who dies of tobacco use, there are as many as 20 others suffering from a tobacco related disease. Tobacco contributes especially to heart and other cardiovascular disease, cancer, and respiratory disease—both chronic and acute. Because tobacco use affects every cell in a person's body, tobacco contributes to many other diseases as well, such as complications of diabetes.

PUBLIC HEALTH RESPONSE: The goal of the NCPHD Tobacco Prevention and Education Program (TPEP) is to reduce the burden of tobacco use in the District, i.e., the illness, death, disability and economic costs. Best practices research indicates that one of the most effective ways for communities to bring about sustainable change in social norms and decrease tobacco use is to create smoke free environments.

Effective, evidence-based tobacco prevention requires the participation of the entire community. Changing policies and the community's acceptance of tobacco is very important, because research shows that educating our children about the harmful effects of tobacco is not sufficient to counter the pro-tobacco myths about the use, value and acceptability of tobacco that the been ingrained into our culture by deceptive tobacco advertising.

Program Highlights

- Provided presentations to community groups and stakeholders about flavored tobacco products and E-cigarettes.
- Worked to inform members of the Columbia Gorge CCO Community Advisory Council about tobacco cessation benefits available to covered members.
- Worked with students at CGCC to strengthen the tobacco policy at campuses in The Dalles and Hood River.

- Provided consultation to City of The Dalles, North Wasco County Parks and Recreation
 District and MCMC on strengthening current tobacco policies
- In conjunction with the Maternal Child Health Team (MCH) at NCPHD, supported by a
 grant from the March of Dimes, offered motivational interviewing training to all
 community partners providing a touch point for pregnant women. Community partners
 included medical providers, community based home visiting services, early education
 providers, and community health workers.
- Supported the MCH Team to implement 2A's and an R (an evidenced based intervention to ask about tobacco use, assess willingness to stop using tobacco, and referring to the Quit Line) for every encounter with family planning clients, WIC adult and teen clients and adults and teens encountered during homevisiting.

Tobacco's toll in one year:

- √ 4,200 Adults who regularly smoke cigarettes
- √ 1,485 People with a serious illness caused by tobacco
- √ 98 Tobacco-related deaths
- √ \$15.2 Million spent on tobacco-related medical care

Population:		
Youths	6,648	
Adults	22,887	
Total residents	29,535	
\$12.1 Million		
In productivity losses due to premature tobacco-		
related deaths		

Among tobacco retailers assessed in North Central	Components of a comprehensive tobacco	
Public Health District	prevention program	
 ✓ Nearly 1 in 2 advertised tobacco outside ✓ 100% sold flavored tobacco ✓ Nearly 8 in 10 sold tobacco at discounted prices ✓ \$1.05 was the average price of a single, flavored little cigar 	Oregon's Tobacco Prevention and Education Program (TPEP supports local public health authorities to serve all 36 counties and nine federally-recognized tribes. TPEP works to: ✓ Engage communities in reducing the tobacco industry influence in retail stores ✓ Increase the price of tobacco ✓ Promote smokefree environments ✓ Provide support and resources to Oregon smokers who want to quit ✓ Engage diverse populations of Oregonians	

Adult Cigarette Smoking

North Central Public Health District	20%
All other Oregon counties	19%

Cigarette smoking among adults in North Central Public Health District is similar to the rest of Oregon.

Cigarette Smoking during pregnancy

North Central Public Health District	Oregon 2008 – 2012	US 2008 – 2012
2008 – 2012 15%	11%	9%
1370	11/0	3,0

Cigarette smoking among pregnant women in North Central Public Health District is **higher** than Oregon overall and the rest of the United States.

Youth cigarette and non-cigarette tobacco use

8 th Grade	Cig. Smoking	6%
	Non-cig tobacco use	8%
11 th Grade	Cig. Smoking	12%
	Non-cig tobacco use	20%

Among 11th graders in North Central Public Health District, noncigarette tobacco product use is **about 50% higher** than cigarette smoking.

Working Toward Fit and Healthy Children

COMMUNITY NEED:

The rate of childhood obesity in Wasco County exceeds both the state and national levels. More than one in three children in our county is clinically obese, meaning they have a body mass index, or BMI, greater than the 85% percentile. Perhaps for the first time in our county's history, our children will not have a healthier life than their parents nor will they likely live as long. Numbers of children in Gilliam and Sherman Counties are too small to provide statistically reliable data, but raw numbers suggest similar issues among children in these counties as well.

COMMUNITY RESPONSE: Through a grant from Columbia Gorge CCO, NCPHD was able to secure an Oregon Solution declaration and project manager from the Governor's office. This Oregon Solutions project team is dedicated to reducing childhood obesity in Wasco County. The project team commits to creating a healthier built environment for our children's sake; educating and informing our community to change community norms around the importance of proper nutrition and being active; and working collectively and collaboratively to change the things we can within our own organizations and within the community to reduce the likelihood of childhood obesity. The collaborative group includes over 20 local partners as diverse as health care, education, restaurants and local government who have all signed "Declarations of Cooperation" committing to work together to address issues around access to nutrition and activity for children and families in our region. Initially the work will be focused on The Dalles Area, but with success and experience, will expand to the rest of the District.



Promoting Healthy Families

COMMUNITY NEED: Healthy families are a foundation for a healthy community. Society also benefits when children are intended, raised in stable and attached families, and arrive at school ready to learn.

PUBLIC HEALTH RESPONSE: Public health services, including Family Planning and Reproductive Health, Home Visiting Programs and the WIC Nutrition Program help individuals and families realize their goals in having planned pregnancies, good birth outcomes for both mother and child, and well nourished children who have the best possible start in life.

By working upstream with families, public health prevention programs save tax payer money, such as the cost of remedial education for pregnant teens, and the necessary remedial services for child abuse and neglect. We also help families access medical services: Oregon Mothers Care program assists pregnant women with the application process for the Oregon Health Plan as well as connections to other services, and the CaCoon and Babies First! Nurse Home Visiting Programs help connect children with Special Health Care needs and at risk of developmental delay to a medical home.



Family Planning / Contraceptive Services

COMMUNITY NEED: Women of childbearing age who lack health insurance often cannot afford an annual exam or the high cost of contraceptives. In addition, women and teens with fewer personal resources often have trouble accessing care through the traditional health care system due to issues with unstable housing, transportation, and work schedules.

With an unintended pregnancy the MOTHER is

- Less likely to seek prenatal care in the first trimester
- Less likely to breastfeed
- More likely to expose the fetus to harmful substances, such as tobacco or alcohol
- Less likely to be married, which has financial and social consequences
- More likely to have an induced abortion
 With and unintended pregnancy, the CHILD has a greater risk of
- Low birth weight

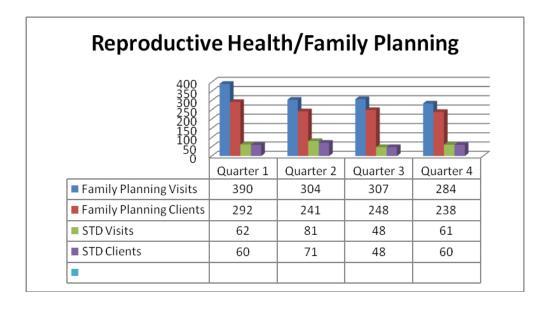
- Dying in the first year
- Being abused and
- Not receiving sufficient resources for healthy development

It is generally understood that teen pregnancy creates a challenge for the health of the teen mother and her baby that can have long term consequences in education, earning potential and cost to society. In 2014, the NCPHD teen pregnancy rate per 1000 females age 15-17 was 12.5. This is only slightly higher than the state rate of 12.4 per 1000.

PUBLIC HEALTH RESPONSE: Our mission in Family Planning is to help our clients make informed decision for their lives that allow them to have children when they are physically, emotionally and financially ready to parent, and when children are wanted and planned.

An unintended pregnancy is expensive not only for the family, but also the tax payers. In the Oregon Family Planning Program, data shows that for every \$1 spent, \$5 is saved by the taxpayer in prenatal, labor and delivery, and infant health care costs for every unintended birth. That is an impressive return on investment.

Access to Family Planning services has helped to decrease unintended pregnancy and prevent abortions. At NCPHD, we offer the Federal Title X Family Planning program, which provides services on a sliding scale, based on income and ability to pay. Many women and teens qualify for the Contraceptive Care Project (CCare), which is a special Medicaid program for those seeking contraception who do not have insurance and are below 185% of the poverty level. With the expansion of the Oregon Health Plan, we work with clients to seek care at their Primary Care Home if possible. NCPHD offers a variety of birth control methods, women's health exams, pregnancy testing, options counseling, and general reproductive health consultation. Abortions are not provided. In the 2014-2015 fiscal year, 615 men and women received services through the NCPHD Reproductive Health Clinic

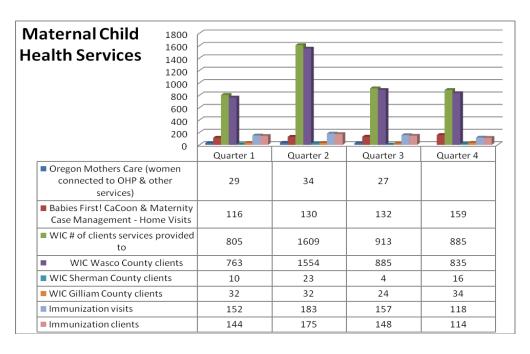


MATERNAL CHILD HEALTH SERVICES

COMMUNITY NEED: Families and communities can be stronger when the needs of those most vulnerable are met. Important resources include access to medical care, connection to resources, education, and vouches for nutritious foods.

PUBLIC HEALTH RESPONSE: NCPHD staff provides a coordinated response for families from prenatal to age 21 in some cases. Oregon Mothers Care connects pregnant women to the Oregon Health Plan, prenatal care and other services; WIC is a federal public health nutrition program that provides proper nutrition, education, and referral to needed services, which helps to prevent more serious and costly health problems; Nurse Home Visiting Programs, such as Maternity Case Management, Babies First! and CaCoon provide developmental screening, referral to resources, education and coordination of care to pregnant women on OHP, children at risk of developmental delay, and children and youth (up to age 21) with special health care needs. These programs help families access care for preventative services to decrease the use of more costly acute care services, help families access stable housing and transportation, and provide information about nutrition, activity, normal child development and parenting.

Of the 102 children receiving a Babies First home visit last fiscal year, 86 of those children received the Ages and Stages Questionnaire (ASQ). The screen helps determine which children may need additional services and referrals to stay on track to reach developmental milestones. Nurses share ASQ's with the child's primary care provider, with the parent's permission. Children who did not receive the screen may have dropped out of the program prior to a screen being performed with parents.



Administrative Functions

Administrative Functions

The public health leadership team includes the Director, Nursing Supervisor, Registered Environmental Health Supervisor, Finance Manager and Health Officer. With the assistance of the executive assistant and accounting clerk, the leadership team assures compliance to public health program standard, manages 26 employees and providing the support they need to do their jobs, and managing the finances of the NCPHD. Significant time is spent in budget development and fiscal monitoring of the revenues and expenses according to District and federal requirements.

In addition, the leadership team has been working toward National Accreditation through the Public Health Accreditation Board. The goal of the voluntary national accreditation program is to improve and protect the health of the public by advancing the quality and performance of Tribal, state, local, and territorial public health departments.

PHAB's public health department accreditation process seeks to advance quality and performance within public health departments. Accreditation standards define the expectations for all public health departments that seek to become accredited. National public health department accreditation has been developed because of the desire to improve service, value, and accountability to stakeholders.

The leadership team duties included the following activities:

- Personnel management, including scheduling, record keeping for payroll, and adherence to labor laws
- Employee recruitment, hiring, training and performance evaluations
- Materials management, including tracking inventory and troubleshooting IT problems
- Electronic Health Record and Electronic Fiscal System management
- Assuring compliance to contractual requirements for many public health programs, as well as adherence to local, state and federal laws, and assuring that employees who are in regulatory functions are administering laws appropriately
- Contract development and administration for individuals and agencies who assist in the implementation of public health programs

NCPHD Leadership Team also interacted with the community on many levels:

- Developing informational and promotional materials, including web-based media
- Responding to requests for information from the public and the news media on public health topics and programs
- Advocating for action to improve the health of the community
- Serving on state and local committees which make decisions on the distribution of millions of federal dollars throughout the state
- Grant writing to bring in additional program dollars

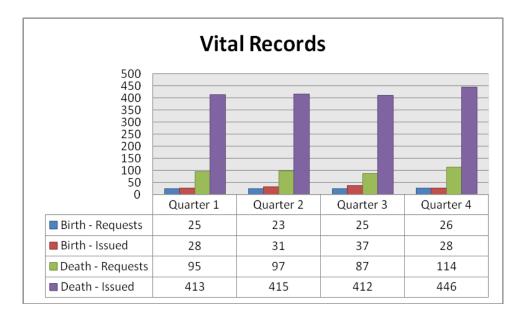
- Collaborating with community partners on application and implementation of grant funded projects
- Presentations and meetings to local elected official
- Collaboration with both CGCCO and EOCCO on community health assessment and community health improvement plans

In addition to direct supervision of program staff, the leadership team also performed many functions in specific programs which were non-administrative, as well as being cross trained to perform work when employees were out due to illness, training, community response, or vacancies in positions.

The Health Officer and Deputy Health Officer also review all policies and protocols which are implemented under their authority. They provide consultation to nursing staff, medical providers and other community partners. The Health Officers were vital in planning and coordinating the Ebola response.

Vital Records

One of the 10 essential functions of public health is to collect and analyze health data. Vital records of birth and death information are a source of health indicators. Many details related to health are noted at the time of birth and death by the attending medical providers. Examples on a death certificate are the *immediate cause of death* and *other significant conditions contributing to death*. Data from the birth certificate includes information such as when prenatal care began, medical risk factors for the mother and weight gain during her pregnancy. These confidential health facts or data are collected on-line through a secure webbased system and compiled by the State to give us a picture of the health of our District and the state as a whole.



Community Involvement

NCPHD staff participated in many local and state organizations, coalitions and task forces this past year. Our staff represented the public health perspective, lent their expertise, and joined with others in our communities to work on significant issues that help to make our community a better place to live:

Regional or Statewide and Local

- Oregon Early Learning Council
- ELC-Oregon Health Policy Board Subcommittee
- Association of Oregon Public Health Nursing Supervisors
- Conference of Local Environmental Health Supervisors
- Health Officers Caucus
- Public Health Administrators of Oregon
- Conference of Local Health Officials
- Regional PHEP Collaborative
- Regional Hospital Preparedness Program
- Wasco County Early Childhood Committee
- NWCSD #21 P3 Committee
- Gilliam County Early Childhood Committee
- Sherman County Early Childhood Committee
- Gilliam County Community Advisory Committee to EOCCO
- Sherman County Community Advisory Committee to EOCCO
- Columbia Gorge CCO Community Advisory Committee
- CGCCO Clinical Advisory Panel
- CGCCO Maternal Child Health subcommittee
- Bridges to Health workgroup
- 4Rivers Early Learning HUB Governance Board
- Wasco County Solid Waste Advisory Committee
- Local Public Safety Coordinating Councils for Gilliam, Sherman and Wasco Counties
- PTAB—Prevention and Treatment subcommittee of MCCFL
- Regional Community Health Worker workgroup
- Youththink
- Mid-Columbia Breast Feeding Coalition
- Multi-disciplinary teams for Gilliam, Sherman and Wasco County
- Wasco County Home Visiting Network
- Community Connections Network
- HAVEN/NCPHD Safer Futures Leadership Team
- HPP Exercise Committee
- Get Ready The Dalles
- Great Oregon Shakeout
- Region 6 ESF

Information

For questions or information regarding this report, please contact Teri Thalhofer, RN, BSN, Public Health Director, at (541) 506-2600, ext. 2614 or terit@co.wasco.or.us

Non-Discrimination Policy:

NCPHD does not discriminate against any person on the basis of race, color, national origin, age, gender, religion, marital status, sexual orientation or disability in the admission to or participation in its programs, services or activities, or in employment. For further information regarding this non-discrimination policy, contact Gloria Perry, NCPHD Human Resources, at (541) 506-2600 ext. 2626.

Fair Fund September 15, 2015 and September 12, 2014

FUND: 203 COUNTY FAIR FUND

	FY 2015-2016	FY 2014-2015
REVENUES		
203.18.5260.411.129 ADMISSIONS	23,442.50	23,611.00
203.18.5260.411.131 FAIR-CAMPING FEES	16,047.00	14,099.00
203.18.5260.411.132 FAIR REVENUE	20,671.35	21,341.98
203.18.5260.419.437 DONATIONS	1,000.00	6,662.61
TOTAL REVENUES	61,160.85	65,714.59
EXPENDITURES		
203.18.5260.51573 GROUNDS MANAGER	2,305.24	2,305.24
203.18.5260.51701 FICA	148.49	148.28
203.18.5260.51705 WORKERS' COMPENSATION	64.28	72.71
203.18.5260.51721 PERS	365.85	291.40
203.18.5260.51729 HEALTH INSURANCE	1,141.86	1,154.00
203.18.5260.51730 DENTAL INSURANCE	69.26	67.04
203.18.5260.51732 LONG TERM DISABILITY	11.06	10.78
203.18.5260.51733 LIFE INSURANCE	2.70	2.72
203.18.5260.52101 ADVERTISING & PROMOTIONS	2,200.28	1,767.70
203.18.5260.52111 DUES & SUBSCRIPTIONS	161.00	161.00
203.18.5260.52122 TELEPHONE	408.97	200.65
203.18.5260.52316 GROUNDS	315.77	-
203.18.5260.52386 FAIR	62,016.83	63,582.02
203.18.5260.52601 EQUIPMENT - NON CAPITAL	495.00	941.40
203.18.5260.52651 EQUIPMENT - REPAIR & MAINTENANG	CE 995.90	771.68
203.18.5260.52711 MEALS LODGING & REGISTRATION	935.52	-
203.18.5260.52731 TRAVEL & MILEAGE	619.86	1,013.27
203.18.5260.52801 BLDG REPAIR & MAINT	2,538.53	5,883.12
203.18.5260.52870 UTILITIES	3,715.50	3,893.69
203.18.5260.52909 SUPPLIES	2,046.27	202.38
TOTAL EXPENDITURES	80,558.17	82,469.08
EXCESS OF EXPENDITURES OVER REVENUES	(19,397.32)	(16,754.49)

MCOG Chronological Order of Events

- 1. September 1978: Original date the State Agency Coordination Program (SACP) instructed the Building Codes Program (BCP) to be written to meet the requirements of the LCDC as per ORS 197.180.
- May 10, 1979: Mid-Columbia Council of Governments (MCCOG) was
 organized and approved as a legal entity by Ordinances of Wasco, Sherman,
 and Hood River counties. Note: Articles of Agreement and/or
 Intergovernmental Agreements regarding this document were not found.
- 3. March 20, 1990: The State BC Program was amended to come into conformity with LCDC objectives as per ORS 197.180 and OAR Chapter 660, Divisions 30 and 31. See page 4, paragraph 4, of the March 20, 1990 SACP.
- 4. July 1992: Gilliam and Wheeler County Became Members of MCCOG. Note: Articles of Agreement and/or Intergovernmental Agreements regarding this document were not found.
- 5. July 1, 2007: MCCOG assumed the enforcement and administration of State of Oregon Building Codes Program under the identity of the Mid-Columbia Building Code Services by Ordinance Number 07-300 (repealed by Ordinance Number 10-001). See MCBCS Building Codes Compliance Program Operating Plans from 2008 and 2010.
- May 13, 2009: Articles of Agreement between Gilliam, Hood River, Sherman, Wasco, and Wheeler counties as members of MCCOG as authorized by Oregon Revised Statutes 190.003. Cities are not included in any IGA or Articles of Agreement Documents that were found.
- 7. January 27, 2009: MCCOG Revised By-Laws. *Originals have not been discovered.*
- 8. March 3, 2010: MCOOG Ordinance 10-001 is an ordinance continuing the assumption of the administration of the Building Codes Inspection Program.
- 9. March 22, 2011: The MCCOG BOD approved Interfund Loan (Resolution 10-04) from MCBCS Reserve Fund of \$492,715.00 to pay of the original US Bank Loan. The loan was for 26 years at .5% interest with a monthly repayment amount of \$1,684.00. ORS 294.468 clearly states interfund loans are not to exceed 10 years and was out of compliance with state law.

10. May 28, 2013: 26 months later, MCCOG BOD approved Resolution Number 12-16 repealing Resolution 10-04 for the same amount of revenue as granted in March of 2011, \$492,715.00. 26 times \$1,684.00 is a total of \$43,784.00. Where did the money go? Once again, A 26 year payment plan was in violation of Oregon Law ORS 294.468. NOTE: The text of resolution 12-16 is very similar to the text of resolution 10-04. In fact, it is so similar one would think the U.S. Bank loan was never satisfied.

A MUST REVIEW:

MCCOG Meeting Minutes of 4-16-13, 5-20-13, and 8-20-13.

- Today the State of Oregon has 132 municipalities that administer the State Building Code Programs.
- The exception is two geographical areas, Coos County, and Umatilla County, are administered by the State of Oregon BCD.
- Building Permits are required for construction, reconstruction, alterations, and repair of structures and buildings.
- All fees collected must be used for the administration and enforcement of a building inspection program as per ORS 455.310 (3) (C).
- A 12% Surcharge of all permit fees must be sent to the State of Oregon.

FAST FACTS can be verified by calling 503-378-4472

Additional Concerns:

- The permit fees costs for building permit in Coos and Umatilla Counties is 17 to 20 percent less than the fees charged by MCBCS. The state mandated surcharge tax on a \$100 dollar building permit fee is \$12.00. The surcharge tax on an \$80 dollar building permit fee is \$9.60. By returning to the State of Oregon the administration and enforcement of the Building Codes Program in Wasco County, the savings on every \$100's of permit fees would be reduced by \$22.40, or 22.4 percent.
- The requested increase of 40% (20% granted) in building permit fees was never part of the budget process, and public notice was not properly given to those individuals in the geographical area of MCCOG who pay building permit fees. Most of the individuals who purchase building permit fees are not aware of the 12% state mandated surcharge tax, nor do they understand how it evolved. Were you?
- Take caution when requesting applications for a new Executive Director of MCCOG. If applicable, disclose the duties of the MCCOG Executive Director may include being the administrator of the MCBCS. The understanding of applicable administrative law should be of the utmost consideration as the

duties of a Building Official and those of an Administrator are uniquely different.

 The by-laws of the Mid-Columbia Council of Governments need to be fully understood and followed as per definition and intent by all public officials on the MCCOG BOD.

I was asked the following question on two occasions by a member of the Wasco County Board of Commissioners. "In a perfect world what would you like to see happen to dispel your Building Code Compliance Programs alleged transgressions?"

My answer: For every elected official on the MCCOG BOD to read, understand, and apply the principle of their oath of office. Simply put, what gives any elected official the right to change or distort the intent of the laws (statutes and rules), of a higher power of government, nor the by-laws of MCCOG which have been authored and agreed upon?

The following was extracted from a letter sent to MCCOG by the SOC office. "The State BCD does not have the revenue, or the staff, to hold the elected officials of MCCOG accountable for improprieties and therefore they are expected to hold themselves accountable." The absence of state intervention does not give them the right to do as they please without consequences and accountability, self-induced or by legal remedy.

Quotes of the day; "Deception buries more people than shovels."

Penn Hunge

Hearing Script

September 16, 2015 Wasco County Planning Commission Meeting
Hearing: Appeal of Planning Commission decision to deny Nonconforming Use Verification and
Replacement development in application / PLANCU-14-09-0003 / Joe Garofoli

1. Opening the Hearing: We will now open the public hearing on agenda item PLAAPL-15-07-0001 appealing the July 7, 2015 decision of the Wasco County Planning Commission to deny PLANCU-14-09-0003, a request by Joe Garofoli for the verification of a nonconforming use and replacement of a recreational cabin and two sheds lost to a wildfire in 2013.

The original application included two requests:

- 1) Verification of a nonconforming use (the non-agriculture dwelling and two sheds)
- 2) Replacement of a nonconforming use

The 13.54 acre property is described as Township 1, South; Range 12, East; Section 18; Tax Lot 402; also known as Wasco County Assessor Account #16341

The criteria for approval of the applications include: Review Authority contained in Chapter 2, Section 2.060.B.14.("matters which the Director elects not to review"), and Chapter 13 (Nonconforming Uses, Buildings and Lots) of the Wasco County Land Use and Development Ordinance.

2. The procedure I would like to follow is:

- a. Disclosure of Interest, Ex Parte Contact or Potential Conflicts
- **b.** Reading of the Rules of Evidence
- c. Planning department will present their report
- **d.** Those who wish to speak in favor of the proposal
- e. Those who wish to speak in opposition of the proposal
- **f.** Rebuttal
- g. Close the hearing and record and begin deliberation
- **h.** If enough information is available the Commission will make a decision today.

3. Disclosure of Interest, Ex Parte Contact or Potential Conflicts:

- **a.** Does any commissioner wish to disqualify themselves for any personal or financial interest in this matter? Does any commissioner wish to report any significant ex parte or pre-hearing contacts? (Staff contact is not ex parte and does not need to be disclosed.)
- **b.** Does any member of the audience wish to challenge the right of any planning commissioner to hear this matter? (If yes the commission must decide if the challenge has merit and if the challenged commissioner should recuse themselves.)
- **c.** Is there any member of the audience who wishes to question the jurisdiction of this body to act on behalf of Wasco County in this matter? (If yes the commission must decide if the challenge has merit.)

4. Planning Commissioner Disclosure of Site Visit:

- a. For the record have any Commissioners conducted a site visit to the subject property?
 - 1) Name
 - 2) substance of what they saw
 - 3) who they talked to

4) substance of conversation

5. Party Recognition

Anyone can speak for or against the proposal today. However, only those who have "party" status will be able to appeal a decision reached by this commission.

A party is defined in Section 1.090 as:

- **a.** The applicant and all owners or contract purchasers of record, as shown in the files of the Wasco County Assessor's Office, of the property which is the subject of the application.
- **b.** All property owners of record, as provided in (a) above, within the notification area, as described in section 2.080 A.2., of the property which is the subject of the application.
- **c.** A Citizen Advisory Group pursuant to the Citizen Involvement Program approved pursuant to O.R.S. 197.160.
- **d.** Any affected unit of local government or public district or state or federal agency.
- e. Any other person, or his representative, who is specifically, personally or adversely affected in the subject matter, as determined by the Approving Authority.

If you want party status, please say so at the beginning of your testimony. At the end of the public testimony, the planning commission will deliberate about granting party status to each person who requested it.

6. The Rules of Evidence are as follows:

- a. No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence.
- **b.** Evidence received shall be of a quality that reasonable persons rely upon in the conduct of their daily affairs.
- **c.** Testimony and evidence must be directed toward the <u>criteria applicable</u> to the subject hearing or to criteria that the party believes apply to the decision.
- **d.** Failure to raise an issue with <u>sufficient specificity</u> may preclude raising it before the Land Use Board of Appeals.
- **e.** Failure to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow Wasco County to respond to the issue precludes an action for damages in circuit court.

Failure of persons to participate in the Planning Commission public hearing, either orally or in writing, precludes that person's right of appeal to the Board of Commissioners. Written testimony submitted prior to the hearing constitutes participation in the hearing.

7. Will the staff please present their report?

Does the planning commission have any questions?

8. Does the Applicant and/or his representative wish to present anything?

- **a.** Please sign in and state your name and address for the record.
- **b.** Does the Commission have any questions?

9. Are there any persons who wish to speak in favor of the request?

- **a.** Please sign in and state your name and address for the record.
- **b.** Please limit your comments to criteria that are applicable to the request.
- c. Does the Commission have any questions?

10. Are there any persons who wish to speak in opposition to the request?

- **a.** Please sign in and state your name and address for the record.
- **b.** Please limit your comments to criteria that are applicable to the request.
- c. Does the Commission have any questions?

11. Does the Applicant and/or their Representative wish to rebut any of the testimony?

- The scope and extent of the rebuttal shall be limited to issues raised during testimony and shall not be used to introduce new evidence.
- 12. Does the Commission have any other questions?
- 13. If there is no further testimony or questions, the Public Hearing is closed and the Commission will enter into deliberation.
- 14. Deliberation
- 15. Motions:

<u>Verification of Nonconforming Use and Replacement of a Nonconforming Use:</u>

- A. Agree with the findings of the Staff Report and affirm the Wasco County Planning Commission's decision to **deny** the (1) non-conforming use determination and deny the (2) replacement development; or
- B. Reverse the Wasco County Planning Commission's decision and **approve** the (1) non-conforming use determination and approve the (2) replacement development with conditions of approval recommended by the Planning Department; or
- C. **Remand** the Wasco County Planning Commission decision back to staff for additional analysis and a future hearing date.
- D. Continue the hearing to a date and time certain to allow the submittal of additional information.

Is there a second?

Any Commission discussion?

Vote.

16. Conclusion of the Hearing

State clearly to the audience and to the applicant/appellant:

- a. The decision of the Commission
- **b.** Appeal Process for the Subject to Standards Review and Conditional Use Permit (Notice of this decision will be mailed Thursday, September 17, 2015. The appeal period is 12 days from the issuance of a decision (September 29, 2015). (ORS 197.830) If no appeal is filed, the decision of the Commission in the matter of the verification of nonconforming use shall be final.