

County Administration Workshop: June 30, 2016

9:00 a.m. – Board Conference Room

Attending: Commissioners Cherryl Walker and Keith Heck (Simon G. Hare was unavailable); Terri Wharton, Recorder

Chair Cherryl Walker called the meeting to order at 9:00 a.m.

1. FRIENDS OF THE OREGON CAVES AND CHATEAU

A. Approval of 2016 Oregon Federal Lands Access Program (Densmore)

Sue Densmore, Executive Director of Friends of the Oregon Caves and Chateau, advised this was a Planning Grant for \$200,000 to develop 16 acres on Highway 46 owned by the Oregon Department of Transportation. She explained the 10% match would come from the Friends of the Oregon Caves and Chateau and the plan is to develop RV parking, electric charging stations, electric buses, visitor center, and restrooms.

Commissioner Heck made a motion to approve 2016 Oregon Federal Lands Access Program and authorize the Chair to sign on behalf of the Board, seconded by Commissioner Walker. Upon vote, motion passed 2-0; Commissioner Heck – yes and Commissioner Walker – yes.

2. LEGAL COUNSEL

A. City of Cave Junction Contract Deputy Agreement

Wally Hicks, County Legal Counsel, advised this was the annual Agreement with the City of Cave Junction with no increase over last year's contract. *Staff was directed to place the item on the Consent Calendar on next week's Weekly Business Session Agenda.*

B. Amendment No. 2 to Intergovernmental County – City Lease Agreement for Sheriff's Office Sub-Station

Wally Hicks explained the Amendment was a one-year extension to the contract. *Staff was directed to place the item on the Consent Calendar on next week's Weekly Business Session Agenda.*

C. Community Development Department; Building Official

Wally Hicks introduced Mark Stevenson, Multi-Certified Building Inspector, stating Mark is fully certified to be a Building Official and comes highly recommended by Robert Rice, Building Safety Director. Wally recommended the Board appoint Mark as the Interim Building Safety Director for a period of 90 days.

Commissioner Heck made a motion to appoint Mark Stevenson as Interim Building Safety Director for a period of 90 days or until the position is filled, seconded by Commissioner Walker. Upon roll call vote, motion passed 2-0; Commissioner Heck – yes and Commissioner Walker – yes.

D. Timeline for November Election- Marijuana Tax Ordinance

Wally Hicks distributed **Exhibit A – Draft 4 Ordinance No. 2016-xxx An Ordinance imposing a Tax on the Sale of Retail Marijuana and Marijuana Products** and reviewed it with the Board.

Commissioner Heck made a motion to follow the Timeline for November Election – Marijuana Tax Ordinance proposed by Legal Counsel, seconded by Commissioner Walker. Upon roll call vote, motion passed 2-0; Commissioner Heck – yes and Commissioner Walker – yes.

3. DEPARTMENT BUSINESS and QUARTERLY UPDATES

Department Business

A. Sheriff's Office

1) Report and Recommendation for Disposal of Property pursuant to Ordinance No. 2014-003 (Lee)

Kari Lee, Property Control, explained she would like to dispose of the property by dumpster with PROPERTYROOM.com or best method determined by the Sheriff. *Staff was directed to place the item under Administrative Actions on next week's Weekly Business Session Agenda.*

B. Forestry

1) Grant of Temporary Easement and Agreement with Anette Reene Yow, nka Anette Reene Stumbo, Timari-Caitlin Yow and Savanna D. Yow (Streeter)

Dave Streeter, Forestry Program Manager, reported this is a temporary easement to access one of the timber sales. *Staff was directed to place the item under Administrative Actions on next week's Weekly Business Session Agenda.*

C. Human Resources

1) Request for Section 125 Insurance Change (Scofield)

JJ Scofield, Human Resources Director, explained the request to change vendors for the management of employee HSA and FSA accounts due to no service fees, which will save both the employee and County money. *Staff was directed to place the item under Administrative Actions on next week's Weekly Business Session Agenda.*

2) Request for Position Change Community Corrections (Scofield)

JJ Scofield discussed the request from Community Corrections to change the Parole and Probation Supervisor position from a tiered program based on certifications to a set salary pay scale. *Staff was directed to place the item under Administrative Actions on next week's Weekly Business Session Agenda.*

D. Public Works

1) Report and Recommendation; and Board Order No. 2016-xxx; In the Matter of Approval of the Temporary Closure of Old Stage Road and East River Street during the Parade on September 5, 2016 (DeJanvier)

Chuck DeJanvier, County Engineer, reported the request was for the Annual Lions Club Parade.

Commissioner Heck made a motion to approve Report and Recommendation; and Board Order No. 2016-027 (Order No. assigned following the meeting); In the Matter of Approval of the Temporary Closure of Old Stage Road and East River Street during the Parade on September 5, 2016, seconded by Commissioner Walker. Upon roll call vote, motion passed 2-0; Commissioner Heck – yes and Commissioner Walker – yes.

Department Quarterly Updates

A. Juvenile Justice

Jim Goodwin, Juvenile Justice Director, gave an update on department activities. He discussed the Oregon Youth Authority's (OYA) need for additional stabilization beds and said he would like to participate in conversations with OYA and the Board agreed.

4. FINANCE REPORT and BUSINESS UPDATE

Arthur O'Hare, Finance Director, advised the Board had asked for additional information from the Blue Grass Festival regarding their \$5,000 request for Economic Development funds and shared their response.

Staff was directed to place the item under Administrative Actions on next week's Weekly Business Session Agenda.

Arthur reported he revised the Travel Policy and sent it out to managers asking for feedback. He mentioned he would be on vacation July 25 – August 5.

Commissioner Walker asked Arthur if he had heard of offering reimbursement to businesses for road closures using Economic Development Funds and Arthur said no. She also asked if he was involved in discussions regarding a Public Relations position and he said he was and the suggestion was managers could discuss ideas during the monthly Department Manager's Meeting.

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

A. Matters from Commissioners

Nothing reported.

B. Liaison Update

Commissioner Walker gave a brief update on the SOREDI Annual Meeting she attended.

C. Miscellaneous Items

Nothing reported.

Meeting adjourned at 10:27 a.m.

EXHIBITS:

Exhibit A – Draft 4 Ordinance No. 2016-xxx An Ordinance imposing a Tax on the Sale of Retail Marijuana and Marijuana Products

Draft 4

EXHIBIT 1
Adminal
01/30/16

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY

ORDINANCE NO. 2016-XXX

AN ORDINANCE IMPOSING A TAX ON THE SALE OF RETAIL MARIJUANA AND MARIJUANA PRODUCTS

WHEREAS, the Josephine County Charter provides that the County has all powers necessary for the conduct of its affairs, consistent with the Constitutions and laws of the United States and the State of Oregon; and

WHEREAS, Oregon's voters and Legislature have enacted laws relating to the taxation of marijuana and marijuana products; and

WHEREAS, counties are newly authorized by state law to enact a tax of up to three percent (3%) on the sale of retail marijuana and marijuana products to consumers within their jurisdictions; and

WHEREAS, a county tax on retail marijuana and marijuana products shall go into effect only upon approval by the majority of a county's electors at a regularly scheduled general election, now, therefore,

The Board of County Commissioners of Josephine County ordains as follows:

SECTION 1.00 TITLE

This ordinance shall be known as the Josephine County Marijuana Tax Ordinance.

SECTION 2.00 PURPOSE AND INTENT

The purpose of this Ordinance is to impose a tax on the retail sale of marijuana and marijuana products within the unincorporated areas of Josephine County.

SECTION 3.00 DEFINITIONS

3.01 The following are definitions for the purpose of this ordinance and for the purpose of any agreement entered into pursuant hereto and for any actions taken as authorized pursuant to this ordinance and otherwise:

- A. "Consideration" means anything of value that is given or received either directly or indirectly, whether through sales, barter, trade, fees, charges, dues, contributions, donations, or reimbursements, whether financial or otherwise.
- B. "Consumer" means a person who purchases, acquires, owns, holds or uses marijuana or marijuana products other than for the purposes of resale to another person.
- C. "Distribute" means to deliver, convey, transfer, sell, consign or otherwise give to another, marijuana or marijuana products. Outright gifts are excluded from the meaning of "distribute," "distributed" or "distribution." Any transfer for financial consideration, however received, is a distribution. Distribution also includes, but is not limited to, any transfer that is accompanied by or results in a reciprocal gift, donation, reimbursement, trade, or any other form or transfer for financial consideration.
- D. "Gross taxable sales" means the total amount received in money, credits, property or any other consideration from the sale of marijuana or marijuana products.
- E. "Marijuana" has the definition found in ORS 475.005(16). Marijuana does not include industrial hemp, as defined in ORS 571.300.
- F. "Marijuana product" means any and all products of whatever type that contain any element, salt, compound, derivative, mixture, resin, or other preparation of marijuana and that is intended for human consumption by any means.
- G. "Owner of Business" or "Business Owner" means that person or entity holding the license from the Oregon Liquor Control Commission (OLCC) to sell marijuana products.

- H. "Person" includes any natural person, any corporation, professional corporation, nonprofit corporation, cooperative corporation, any profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, joint venture, any legal entity, and any unincorporated group acting in common.
- I. "Retail" and "Retail sale" includes any distribution of marijuana or marijuana products, except for transactions that are authorized under the Oregon Medical Marijuana Program.
- J. "Sale" or "sell" means the transfer of marijuana or marijuana products from one person to another for consideration. A transfer of marijuana or marijuana products is a sale if the person transferring the marijuana received any type of consideration as described herein, whether directly or indirectly, whether at the time of the transfer or at some other time.
- K. "Seller" means any person who transfers marijuana or marijuana products to another person for consideration.
- L. "Tax" means the tax imposed by this ordinance on the sale or transfer of marijuana or marijuana products.

SECTION 4.00 AUTHORITY

- 4.01 The Board of County Commissioners of Josephine County recognizes, declares and establishes the authority of the Board of Commissioners to tax the sale of marijuana and marijuana products within Josephine County, and to assess, calculate, collect and enforce a tax on all such activities.
- 4.02 This ordinance does not apply to premises located within the city limits of incorporated cities within Josephine County, nor to activities conducted solely within such city limits.

SECTION 5.00 TAXATION

- 5.01 There is hereby levied and shall be paid by every seller a tax on the privilege of distributing or selling retail marijuana and marijuana products to consumers as defined in this ordinance.
- 5.02 The tax shall be in the amount of three percent (3%) of the total amount of the gross taxable sales of marijuana and marijuana products to consumers per calendar quarter. Every Business Owner shall be responsible for the collection of the tax from the consumer at the time of the sale, and shall be responsible for the payment of the tax to the Josephine County Tax Collector. Any tax owing to Josephine County through the office of its Tax Collector shall be a debt owed to the County by the Business Owner. The County may undertake any action permitted by law to collect the debt.
- 5.03 Every Business Owner shall be entitled to a deduction against the tax of the amount in the form of refunds actually returned to the purchaser.
- 5.04 Every Business Owner shall file a Notice of Operation with the Josephine County Tax Collector within 30 days of passage of this ordinance, or upon establishment of the business, whichever is sooner.
- 5.05 Every Business Owner shall make a return to the Josephine County Tax Collector on the fifteenth day of January, April, July, and October, reporting the total amount of gross sales for the immediately preceding three-month period. The return on January fifteenth shall report the gross sales for the preceding months of October, November and December; the return on April fifteenth shall report the gross sales for the preceding months of January, February and March; the return on July fifteenth shall report the gross sales for the preceding months of April, May and June; and the return on October fifteenth shall report the gross sales for the preceding months of July, August, and September.
- 5.06 Every return listed in Section 5.04 shall be accompanied by payment of the total amount of the tax for that quarter. Payment of the tax is due at the time the return is filed. The return is filed when the Josephine County Tax Collector actually receives it.

- 5.07 A Business Owner aggrieved by any action or decision of the Board of County Commissioners may appeal the decision by filing a writ for judicial review with the Circuit Court of the State of Oregon for Josephine County.
- 5.08 Every person engaged in the retail sale of marijuana and marijuana products shall keep accurate records detailing the revenue and expenses incurred. Such records shall specify the time period for which they apply, which shall be not less than one week and not more than one month. Such records shall be kept and maintained upon the premises where the activity is conducted, and such records shall be available for inspection by County authorities during business hours upon twenty-four (24) hours notice.

SECTION 6.00 ENFORCEMENT

- 6.01 Enforcement of the provisions of this ordinance is the joint responsibility of the Josephine County Sheriff and the Josephine County Tax Collector. Each of those officers is authorized by the adoption of this ordinance to take any and all actions necessary to enforce the provisions of this ordinance, consistent with the provisions of the Constitutions, statutes, and rules of the State of Oregon and the United States.
- 6.02 Notice of Noncompliance with this ordinance shall be by written notice, delivered by certified mail to the occupant or person in charge of the premises where the violation occurred, by certified mail to the Owner of the Business, and by posting of the written notice in a prominent place at or on the front door of the premises.
- 6.03 The Owner of the Business may contest the Notice of Noncompliance by delivering a written statement to the Board of County Commissioners no more than twenty-one (21) calendar days after the date of the Notice of Noncompliance. The Board of County Commissioners shall then schedule a public hearing regarding the violation as soon as practicable, and shall provide the Business Owner with an opportunity to be heard and to present relevant evidence.
- 6.04 After the Tax Collector notifies noncompliant persons pursuant to the process set forth in this ordinance, the Board of County Commissioners may

impose penalties through a written Order consistent with Section 7 of this ordinance. Such an order may be approved no fewer than twenty-one (21) calendar days after the Tax Collector provides a Notice of Noncompliance to all persons that the Tax Collector finds to be in violation, or after a public hearing to contest the Notice of Noncompliance, whichever is later.

- 6.05 An aggrieved person may appeal the imposition of any penalty imposed under this ordinance by filing a writ for judicial review with the Circuit Court of the State of Oregon for Josephine County.

SECTION 7.00 PENALTIES

- 7.01 Failure to pay the tax in the full amount at the time it is due is a violation of the provisions of this ordinance. Any seller who fails to pay the total amount of the tax at the time it is due shall pay a penalty of ten percent (10%) of the unpaid portion of the tax. If the balance due is not paid within thirty (30) days of the due date, the seller shall pay an additional penalty of thirty percent (30%) of the unpaid balance.
- 7.02 If a seller fails to make the return required by Section 5.04 when due, the Josephine County Tax Collector shall estimate the tax due. Within forty-five (45) days after the due date of the tax, the Tax Collector shall assess against the seller the estimated tax and notify the seller in writing of the assessment pursuant to Section 7.10. The Tax Collector shall also notify in writing the Sheriff, the Board of County Commissioners and the Oregon Liquor Control Commission of the noncompliance. If the seller fails to file the return and pay either the estimated tax and associated penalties or the actual tax based upon the return and the associated penalties, the Sheriff, the Tax Collector, and the Board of County Commissioners shall take any action permitted by law to collect the tax and to secure the cessation of the seller's activities until payment is made.
- 7.03 Failure to maintain the records required by this ordinance or failure to make such records available for inspection is a violation of this ordinance and shall subject the violator to a penalty of \$1,000.00.

7.04 All fines, penalties and unpaid taxes imposed or assessed under the provisions of this ordinance shall become liens against the real and personal property of the Owner of the Business. Josephine County may use any legal means to facilitate the collection of all such fines and penalties, as well as the taxes imposed by this ordinance.

SECTION 8.00 **EFFECT OF ADOPTION**

8.01 Upon its effective date, this ordinance imposes a tax upon the privilege of engaging in the retail sale of marijuana or marijuana products within the unincorporated areas of Josephine County, and imposes restrictions and regulations upon persons engaging in such activities.

8.02 This ordinance is not retroactive. Transactions conducted prior to the effective date of the ordinance are not affected and are not subject to the tax. All transactions conducted on or after the effective date of this ordinance are subject to the tax.

8.03 The revenue from this tax shall be used for public health, education and treatment related to marijuana and marijuana products.

SECTION 9.00 **SEVERABILITY**

9.01 In the event that any part of this ordinance shall be held by a court to be invalid or unenforceable, the remaining sections shall be unaffected and shall remain in full force and effect.

SECTION 10.00 EFFECTIVE DATE

First reading by the Board of County Commissioners this ____ day of _____, 2016.

Second reading and adoption by the Board of County Commissioners at least thirteen (13) days from the first reading this ____ day of _____, 2016. This ordinance shall take effect upon approval by the voters of an authorizing measure at the election of November 8, 2016.

JOSEPHINE COUNTY
BOARD OF COMMISSIONERS

Cherryl Walker, Chair

K.O. Heck, Vice Chair

Simon G. Hare, Commissioner

ATTEST:

Recording Secretary

APPROVED AS TO FORM:

Wally Hicks, Legal Counsel