BEFORE THE BOARD OF COMMISSIONERS  
County of Lake County  
State of Oregon

REGULAR SESSION  
***Christmas Valley Community Center***

The Lake County Board of Commissioners met in Regular Session on Wednesday, October 15, 2014 at 10:00 a.m. The following members were present: Board Chair Dan Shoun, Vice-Chair Bradley J. Winters and Commissioner Ken Kestner. Also present: Commissioners Administrative Assistant Denise Thorsted, Legal Counsel Bailey, Sheriff Phil McDonald, Road Master Rick DuMilieu, Facility and Property Manager David Berman, Planning Director Darwin Johnson, SCOEDD Director Betty Riley and Lake County Examiner Member of the Press Jimmy Hall. Number of Public present: 16.

Additions:  Warner Canyon Ski Hill Thinning/RAC Grant, Action/Consideration  
Deletions:  ODF&W Property Tax Notice (decision made during Work Session)

The Regular Session was called to order by Chairman Shoun and the Pledge of Allegiance was recited.

10:00 am – Public Comment  
Ms. Thorsted reminded those present that October 24, 2014 would mark Lake County’s 140th Birthday.

Other Business:  
Meeting Minutes, Action/Consideration:  
Commissioner Kestner moved to approve the September 30, 2014 Work Session Meeting Minutes as presented. Commissioner Winters second. Motion carried.

Commissioner Kestner moved to approve the October 1, 2014 Regular Session Meeting Minutes as presented. Commissioner Winters second. Motion carried.

10:05 am – Public Hearing/ATV Ordinance #104, Action/Consideration  
Hearing Open:  10:05 am  
Commissioner Winters confirmed that this Ordinance was drafted due to a request made to the Board of Commissioners asking for the allowance ATV use on County roadways. A subgroup had met to determine the wording of the proposed Ordinance and potential designation of open/closed roadways including: Citizen Rob Thornton, Sheriff Phil McDonald, Commissioner Brad Winters and Road Master Rick DuMilieu. Process followed was discussed. Today’s hearing was the second of two public hearing.
Confirmation was given that the first public hearing had taken place in Lakeview with no opposition stated. Subgroup member Rob Thornton discussed the request submitted and the potential positive economic development recreation/tourism impacts to Lake County this Ordinance could allow for. Mr. Thornton provided information on ATV groups expressing interest in visiting Lake County and how other counties with approved ordinances manage this recreation opportunity.

Sheriff McDonald confirmed that currently, Oregon State law allowed for ATV use on roadways for agricultural purposes only. These uses were required to have a slow moving vehicle sign and ride as far to the right as possible with a maximum speed of 25 mph. Sheriff McDonald added he did not foresee a significant increase of ATV use or issues in north Lake and provided information on steps currently taken to manage complaints. Greater benefit was expected for local farmers and ranchers by implementing this ordinance than recreational users.

Confirmation was given that the proposed Ordinance only pertained to County roadways, ATV use would still be restricted on State Highways. Wording included: (1) regulations for operation of ATV, (2) Valid driver’s license requirement, (3) ATV operator permit requirement, (4) safety equipment requirements, (5) helmet requirements, (6) safety belt requirements, (7) speed limit requirements, (8) prohibited/non-licensed users, (9) financial requirements, (10) visibility issues, (11) designation of roadways, (12) liability, (13) penalties and (14) responsibility.

Road Master Rick DuMiliou discussed Attachment A listing designated “Closed” roadways and added concern for users on County roadways. Mr. DuMiliou stated that this would be a “trial by error” process moving forward but with the roads currently listed negative impacts were expected to be minimal. Commissioner Winters added that both the City of Paisley and the Town of Lakeview currently allowed ATV use within their limits.

Public Input:

Citizen Ken Threat: (Opposed) Expressed concerns for additional law enforcement needs and potential damage to roadways. In addition, safety was a strong concern with the large number of hay trucks in the local area and the amount of traffic. Mr. Threat later in the meeting expressed concern for ATVs operating at dusk/after dark without lights.

Citizen Richard Mensch: (Opposed) Expressed concerns with safety and potential road damage. Felt that establishment of this Ordinance was an “accident waiting to happen”. As this was an agricultural area, no ordinance was needed. Added concern for potential liability issues for local business (trucking, farming). Mr. Mensch later added that he would have liked to have seen representation from North Lake on the subgroup for this process. The Board agreed that would have been beneficial.

Citizen Becky Tocol: (Pro) Provided information on ATV use allowed in Utah as her parents were residents stating that no significant issues had risen from this allowance. Felt this Ordinance would increase opportunities for community events as well as tourism events. No foreseen changes were expected as ATV use was already occurring.

Citizen Carl Shumway: (Opposed) Felt there was there were to many safety issues and liability associated with the Ordinance presented for the local area. Additionally, concern was given for potential damage to roadway shoulders.
Commissioner Shoun explained that the Board was following the necessary process on this matter and receiving public input from both sides of this issue. As this request had been brought to the Board, due process was needed.

Citizen Monica Smallcy: Discussed tragic accident that occurred due to dust in which a local resident was struck and killed while riding along the side of the road.

Citizen Luana Dasheva: (Opposed) Stated that she could not see where this use would increase the local economy.

Sheriff McDonald confirmed that he, Road Master DuMiliou and the Board of Commissioners shared the same concerns as those stated. These same concerns were discussed and efforts were made to address by the subgroup but as this was a request brought forward by citizens of Lake County, due process needed to be followed and consideration given.

Citizen Steve Adams: (Pro) Discussed opportunity for traveling on dirt roads rather than paved roads within the local area. Felt this would be a better option for ATV users as there were no hay trucks or heavy fast moving traffic on them. Conversation followed on “County” versus “Access” roadways and current allowable uses.

Citizen Terry Cooper: Asked how the County could change a law put in place by the State. Legal Counsel confirmed that the County was allowed as they held jurisdiction over “County” matters.

Public Hearing Remained Open

10:30 am – Public Hearing/Back Scatter Site Planning Commission Recommendation, Action/Consideration

Planning Director Darwin Johnson provided a brief overview on this topic confirming that an application had been received from the Oregon Military Department for rezoning of the area known as the “Back Scatter Site”. This change would move from being Agricultural (A-2) to Public Facility (P-F) and from range ® to Public Comprehensive Plan designation.

The application was reviewed by the Lake County Planning Commission on September 16, 2014 and approval was given for the recommendation presented for approval of the Zone Change and Comprehensive Plan Change by the Board of Commissioners. Today’s hearing was the next step in the process for zone/comprehensive plan changes.

Stan Hutchison (Oregon National Guard Chief of Planning and Programming) confirmed that this had been a long process for an area in which the Department of Military intended use was for training purposes. In addition, potentially future use could include a possible solar project with the close proximity of a transmission line.

Mr. Hutchison confirmed this was to be a “controlled” facility and only opened to the public as needed. The requested zone change was simply to allow training use at this location (rather than agricultural specific). Mr. Johnson provided information on the “blanket” zoning that had occurred in the area historically. Conversation followed on historic zoning and previous ownership of the BLM for these lands.
Mr. Hutchison provided additional information on the potential development of solar and confirmed the intended use for this area was for training purposes. Any potential future developments were still being investigated and researched. Mr. Johnson confirmed that adjacent land owners had been notified of this process and advertising of this hearing had occurred.

Conversation continued on the potential Request for Proposals process to be followed in relation to researching of feasibility of a solar project. Confirmation was given by Mr. Johnson that current zoning did not allow for training to occur on this site. Mr. Hutchison added that in the future, this site could also serve as emergency support in the instance of a catastrophic event.

*Public Hearing remained open.*

**Other Business cont.:**

**Airport Lease Fee Schedule Addendum, Action/Consideration:**

Conversation occurred on the Addendum presented including Section 3 in which the original agreement was for $15,000 worth of services was to be invested as “advance lease payment”. The Addendum stated this amount was to be “in donation to Lake County Airport”. Additionally, the change included $10,000 (or seven years VALUE) towards the existing property lease agreement. The above were to be considered received via one 1984 Kenworth fuel truck. Concern was expressed with advanced lease payment versus donation ($15,000).

Commissioner Winters stated that he would like the Addendum to show the $15,000 was to be applied to the amount obligated first as per the approved fee schedule and the additional $10,000 for the balance of the fuel truck be simply paid to Withrotor Aviation rather than traded as presented. Following discussion, the Board agreed to table this item for redrafting and for Road Master DuMilieu to have the opportunity to look over the vehicle. This item was to be added to the November 4th Work Session for further discussion.

**Department Updates:**

*Facilities and Properties Update, Manager David Berman:*

Mr. Berman confirmed that improvements were continuing to be made to the North Lake Annex including: replacement of windows, relocation of departments for better access, new access approaches, HVAC system install, landscaping, sprinkler system install and other items.

In addition, confirmation was given that upgrades were also being made to the Lake County Courthouse including replacement of windows, HVAC system install in the jail and outside painting.

**Break:** 11:10 am  
**Resume:** 11:33 am

**Addition:**

**Warner Canyon Ski Hill Thinning/RAC Grant, Action/Consideration:**

Commissioner Shoun confirmed that the property owned by Lake County known as Warner Canyon Ski Area was currently being leased by the Fremont Highlanders. During the Resource Advisory Council (RAC) Grant application process (Title II funding), award was given for thinning/logging restoration on the ski hill. The contract presented was between Lake County (property owner) and TWC Corp. Contract/award was to not exceed $25,000.
Legal Counsel confirmed that he had reviewed the contract presented and suggested changes had been made.

**Commissioner Winters moved to approve the Timber Purchase Agreement between Lake County and TWC Corp. as presented. Commissioner Kestner second. Motion carried.**

**Legal Updates:**
Legal Counsel confirmed that he had communicated with Mary Castle of Weyerhaeuser Corporation regarding the offer presented for donation of mineral/geothermal rights to Lake County. Ms. Castle had agreed to draft the required documentation for this transfer.

**Liaisons:** No liaisons were provided during today’s session.

**Public Hearing/Back Scatter Site Planning Commission Recommendation:**
*Hearing Closed: 11:40 am*
The Board agreed that there was no apparent opposition to this request.

**Commissioner Shoun moved to approve the Planning Commission recommendation for approval of Zone Change and Comprehensive Plan Changes of Oregon Military Department, File #14-033-ZC/CPC as presented. Commissioner Winters second. Motion carried.**

**Public Hearing/ATV Ordinance #104:**
*Hearing Closed: 11:42 am*
Commissioner Winters acknowledged that during today’s public hearing several points of opposition were conveyed. In relation, during the hearing held earlier in the month in south Lake County (Lakeview), multiple points in favor were conveyed.

Mr. Thornton added that the Ordinance presented was meant to be a “friendly” ordinance and suggested for the Board possibly consider approval as the ordinance would not go into effect for ninety (90) days. This would allow North Lake the opportunity to review and supply any additional roadways suggested for closure. Confirmation was given that following the ninety day period the approved Ordinance could be amended to reflect recommended changes. Mr. Shumway suggested for all roadways north of Highway 31(District 5) be closed at this time.

Legal Counsel confirmed that making changes at time would void the current process and force it to start over again. The decision made would be either to approve or not approve as presented. Suggestion was made by Commissioner Winters for a committee to be formed for the purpose of gathering the “pulse” of the community on this matter. Agreement was made for advertising for committee members to occur and for a formal recommendation be presented for consideration. Sheriff McDonald added that non-county roads were not included in this Ordinance; ATV use would still not be allowed on town site roads (such as Snowflake) or State highways. Conversation followed on roadways designated as “Closed” roadways.
Commissioner Winters moved to approve Ordinance No. 104 in the matter of adopting an ordinance authorizing the operation of all-terrain vehicles on designated County roadways as presented. Commissioner Kestner second.

Discussion: Confirmation was given this Ordinance would not go into effect for ninety days. Commissioner Winters added concern expressed previously by the US Forest Service regarding noise and confirmed a clause had already been included on this concern. Conversation occurred on committee to be appointed in the North Lake area.

Motion carried.

Recommended number of committee members given was five (5): 1 farming rep, 1 business rep and two to three lay persons. Hope was to have this committee established within thirty days (30) in order to have an opportunity to meet and determine a recommendation prior to the ninety day effective date. Mr. Wilson agreed to be the local contact for coordinating this group and manage scheduling the necessary meetings. The Board asked for a recommendation to come from the ATV Review Committee during the January 6, 2015 Work Session. Applications for the ATV Review Committee members were due November 3rd for consideration November 4th.

Executive Session 192.660 (2) (h): 12:35 pm

Three items were discussed. Those remaining included the Board of Commissioners, Administrative Assistant Thorsted and Legal Counsel.

Resume Open Session: 1:00 pm

No decisions were made while in Executive Session.

Legal Counsel confirmed that a letter had been drafted to the Attorney General Rosenbloom expressing the Board’s dissatisfaction with Lake County’s treatment during a recent Department of Justice investigation and requesting action on her part.

Consensus was given by the Board of Commissioners to sign and forward the letter to Attorney General Rosenbloom.

Legal Counsel addressed the request for payment received from AccTech Solutions related to the recent catastrophic server failure experienced. Recommendation was made to pay the amount of $19,462.00 presented.

Commissioner Shoun moved to approve the payment of $19,462.00 to AccTech Solutions related to the catastrophic server failure as presented (Contingency). Commissioner Kestner second.

Discussion: Request was made by Commissioner Winters for AccTech to report to this Board in the near future to provide information on potential exposures needing to be addressed.

Motion carried.

Also related to the catastrophic failure, Legal Counsel addressed a statement received from software provider Vadim in the amount of $620.00.
There being nothing further to come before the Lake County Board of Commissioners, this meeting adjourned at 1:02 p.m.

Respectfully Submitted,

Denise Thorsted
Administrative Assistant
Board Approval,

Dan Shoun
Chairman

Bradley J. Winters
Vice Chairman

Ken Kestner
Commissioner