

**WEEKLY BUSINESS SESSION – October 25, 2017**

9:00 a.m. – Anne G. Basker Auditorium  
600 N.W. Sixth Street, Grants Pass, OR 97526

Present: Simon G. Hare, Chair; Lily N. Morgan, Vice-Chair; and Daniel E. DeYoung, Commissioner; Wendy Watkins, Recorder

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*These are meeting minutes only. Only text enclosed in quotation marks reports a speaker's exact words.*

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Pursuant to notice through the media and in conformance with the Public Meeting Law, Simon G. Hare, Chair, called the meeting to order at 9:00 a.m.

Items discussed were as follows:

**1. PROCLAMATION:**

- a. **In the Matter of Proclaiming the Week of October 23-31, 2017 as RED RIBBON WEEK** *(One original Proclamation filed with the County Clerk)*

Commissioner Morgan read the Proclamation and presented it to Amy Wels.

**2. REQUESTS/COMMENTS FROM CITIZENS:** *(Each person will be given three (3) minutes to speak)*

Bob Hart, Land Use Consultant, spoke in opposition to the Community Development proposed pre-application fee.

Sandi Cassanelli, Merlin, spoke in opposition to the Community Development proposed pre-application fee.

Judy Ahrens, Josephine County, spoke in support of Red Ribbon Week.

Larry Ford, Grants Pass, spoke in support of Resolution No. 2017-047 and spoke in support of regulating marijuana grows on RR5 zones.

Mark Collier, Grants Pass, read and submitted his **Cannabis Letter (Exhibit 1)**.

Mark Seligman submitted his comments via email **(Exhibit 2)**.

**3. APPROVAL OF CONSENT CALENDAR:**

- a. **Minutes** *(Draft minutes are available for viewing in the Board's Office)*  
Land Use Hearing – October 16, 2017  
Legal Counsel Update – October 17, 2017  
Weekly Business Session – October 18, 2017  
General Discussion – October 18, 2017
- b. **Resolution No. 2017-047; In the Matter of Expressing No Confidence in the U.S. Forest Service Resource Management Plan and Fire Policy** *(One original Resolution filed with the County Clerk)*
- c. **Order No. 2017-052; In the Matter of Uniform Procedure for Setting Fees Charged by County and Setting a Public Hearing: Community Development; Parks Department; Public Works; Sheriff's Office** *(One original Order filed with the County Clerk)*
- d. **Acceptance of Amendment to Violence Against Women Act Grant #VAWA-C-2015-JosephineCo.DAVAP-00009 Between the Department of Justice and Josephine County to Extend Grant Award Period Six Months and Add \$43,950 to Award** *(One original Amendment filed with the County Clerk)*
- e. **Acceptance of Child Abuse Multi-Disciplinary Intervention Grant #CAMI-MDT-2017-JosephineCo.DAVAP-00036 Between the Department of Justice and Josephine County for \$220,632.40 from July 1, 2017 to June 30, 2019 to Fund Prosecution and Advocacy Services for Victims of Child Abuse** *(One original Agreement filed with the County Clerk)*
- f. **Approval of the 2017-19 Community Corrections Plan** *(One original approval letter filed with the County Clerk)*
- g. **Intergovernmental Agreement #5432 with Oregon Department of Corrections and Josephine County for Alcohol and Drug Treatment Services** *(One original IGA filed with the County Clerk)*
- h. **Intergovernmental Agreement #5464 with Oregon Department of Corrections and Josephine County for Community Corrections Grant-in-Aid Funding** *(One original IGA filed with the County Clerk)*

**Board Discussion and Action:**

Commissioner DeYoung made a motion to approve the Consent Calendar Agenda Items 3(a) through 3(h) as listed, seconded by Commissioner Morgan. Upon roll call vote, motion passed 3-0; Commissioner DeYoung – yes, Commissioner Morgan – yes, and Commissioner Hare – yes.

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

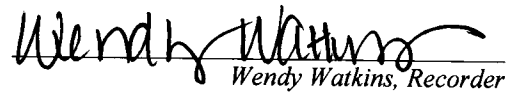
None reported.

5. **MATTERS FROM COMMISSIONERS:**

Commissioner DeYoung spoke about the Fair Board meeting he attended last night.

Commissioner Hare said he will recuse himself from voting on Ordinance No. 2017-002.

Weekly Business Session adjourned at 10:17 a.m.

  
Wendy Watkins, Recorder

**Entered into record:**

**Exhibit 1 – Mark Collier’s Cannabis Letter**

**Exhibit 2 – Mark Seligman’s Email**

10/25/17

**Alert! – The county is bulldozing forward with their 8th draft of the ban on cannabis gardening on Rural Residential lands WORSE THAN PREVIOUS DRAFTS and they told the press Nov. 1 is the first reading with public comment, but their actual Ordinance 2017-002 has it dated a week earlier on October 25 this Wednesday!** [Attached is the 8th draft of Ordinance 2017-002, and *the second half of this email has a line-by-line critique of the ordinance.*]

We don't know if the county officials deliberately lied to the Grants Pass Courier about the date of the first reading of the ordinance, or if they intend to change the date they wrote on the ordinance to reflect what they told the press. *They have sown chaos.* Either way, **be prepared to show up** Wednesday, Oct. 25 at 9 am at the Anne Basker Auditorium, 600 NW 6th st., downtown, Grants Pass in case they slip the ordinance onto the agenda at the last minute -- **WE WILL EMAIL YOU THE CORRECT TIME OF THE FIRST READING OF THE ORDINANCE BAN NO LATER THAN THIS TUESDAY 9 AM BECAUSE THE LAW REQUIRES COUNTY OFFICIALS A MINIMUM OF 24 HOURS TO NOTICE THE PUBLIC.**

**REPEAT: WE DON'T KNOW WHEN THE ORDINANCE WILL HAVE ITS FIRST READING WE WILL TELL YOU ASAP WHEN WE FIND OUT!**

*The following text is drawn from the document that is being sent to Rep. Carl Wilson's office as a formal appeal to stop the county commissioners from their unreasonable political agenda banning cannabis from our private properties on Rural Residential lands. There was never a problem until just this year. The following brief argues that 1) the county officials have been unreasonable in the ways they have sought to pursue the ban, and 2) that the contents of the ordinance banning cannabis gardening 13 or more plants on Rural Residential lands is filled with unreasonable provisions. Both the means and the ends are unreasonable.*

The county officials sparked a culture war just like teenage kids starting a catastrophic forest fire. The strife between the new highly vocal anti-cannabis cohort and the cannabis family farmers with myriad businesses those farms support cannot be resolved any time soon, and we can thank the county officials for dividing us. It will not end with a resolution favoring either side nor one landing in the middle as a compromise. People have asked "where's the solution?" as if there is a silver bullet that will resolve the conflagration sparked by the county commissioners: there is none.

The one effective act the commissioners have done this year is to inflame the culture war that cannot be doused by any one so-called solution. No matter what happens in the future there will now be ill-will not seen since the worst of the logging wars. They did this to us either through incompetence, negligence or a nasty mix of both. Fortunately, there is still a very large number of citizens who have either ignored the issue or avoided the crossfire, and they do not deserve to be swept up in this very unfortunate situation despite the fact they will all suffer the economic loss of the cannabis industry if the three commissioners have their way banning it off Rural Residential lands.

***The problem that has flared up is multifaceted: it is economic, social, environmental, legal, political and land use.*** However, since our county officials have only two tools at their disposal, land use and politics, and instead of building community, they are using the hammer as a sledge to demolish our community and the saw to cut it apart. Quite frankly, I don't think this is what they intended, but they lack the professional experience to effectively govern, and the problem has quickly gotten out of hand and away from them.

This, unfortunately, is not an exaggeration, everyone agrees there has never been such tension, anger and frustration among community members in decades, and it is a result of the commissioners whipping up into a fury what was previously the quiet resentment by a vocal minority that cannabis has come out of prohibition while simultaneously threatening to destroy the economic development potential of thousands of family farmers in the region. This effort by the commissioners to foment anti-cannabis resentment to help drive their political agenda to ban cannabis on our properties is totally unreasonable. The fact they did it by misrepresenting the facts about overall public sentiment as proven by a recent Freedom of Information Request makes it worse.

*This letter explains that the commissioners have been unreasonable because they have let their renown anti-cannabis bias drive their political agenda to ban cannabis off Rural Residential lands by any and all means possible, even when it has meant they have had drive a wedge between formerly amenable community members and commit political subterfuge by grossly misrepresenting public sentiment in the media and public hearings to falsely justify their ban.*

***It must be pointed out that once the commissioners got the community enraged, they have openly rejected trying to resolve the problem by getting objective, third-party professional help. Rather, they have had a "go it alone" attitude and only utilized minimal input from a panel and a commission of which they have full control to appoint members.*** They do not have a land use attorney, an economic impact study, they have ignored calls for environmental studies and they have sought to manufacture consent among two hand-picked boards to fix the facts around their political agenda.

For instance, they brazenly stacked the Rural Planning Commission and the Cannabis Advisory Panel with impenetrable majorities of openly partisan anti-cannabis members. One only has to look at the Rural Planning Commission vote that was preceded by 70% public comment sternly criticizing the commissioners' ban on gardening cannabis on Rural Residential lands: although the auditorium was way over the occupancy limit allowed by the fire marshal, and the public sentiment so very clear in opposition to the ban, the Rural Planning Commissioners voted to accept every single provision of the commissioners' ban except the setback distances by a 7 to 1 majority.

For another example, one need only listen to the breathtaking anti-cannabis rants on the Cannabis Advisory Panel by appointee, Gerard Fitzgerald, that can only be described as hysterical and totally unreasonable, or the same by appointee, Jeffrey Thomas, who just authored an equally hysterical and partisan rant in the Grants Pass Courier filled with unsubstantiated claims and unprofessional hyperbole. The article is a must read, here's the link: <http://web.thedailycourier.com/articles/2017/10/21/opinion/news001.html?i=19479> Other members who have demonstrated their alligiance to the commissioners' political agenda are: Donald Fasching a retired Josephine County Undersheriff, Rene Pare who made uncompromising critiques of cannabis farmers at the most recent meeting, Steve Becker who has made repeated public comments stating his distaste for cannabis farming, and Valerie Montague, a former Josephine County Planner, who has literally been the mouthpiece of commissioner Morgan who is the official staff liason. This is a 6 to 3 supermajority.

Since July there have been an unprecedented number of revisions to the commissioners' effort to prohibit cannabis gardening on our properties because they have repeatedly been forced to change tactics: every time they came up with yet another ad hoc way to take away our livelihood, they came to realize it was either a serious lawsuit liability for the county or political liability for themselves. County Legal Counsel, Wally Hicks, has permitted unacceptable provisions to go forward to see if they can pass unscathed by public scrutiny, and he has only withdrawn them when they were demonstrated to expose the county to lawsuits. The only reason they were ever compelled to change tactics was sole concern for their welfare: would they get sued and would they get re-elected or face a recall. For one example, remember how they were just going to arbitrarily void the Land Use Compatibility Statements (LUCS) they had previously issued as perfectly acceptable and valid?

They have been told on the record in public hearings that their fatuous ballot question, Measure 17.81, was so limited in its query to the voters asking about OLCC commercial cannabis cultivation on Rural Residential lands, that it

cannot be used in the multiple "whereas" statements in Order 2017-034 that include medical marijuana. Now, in the subsequent **8th draft** of Ordinance 2017-002, they have come to realize their legal liability regarding those "whereas" statements, and have manufactured yet another brazen act of negligence to make the claim the ballot question is pertinent: they have literally lied about the definition of "commercial" so they can claim Measure 17.81 now encompasses medical marijuana that does not enter into commerce, the 95% vast majority of all cannabis gardens in our county.

In the 8th draft of Ordinance 2017-002, under the now widely expanded section of definitions, they state: ***"MARIJUANA, COMMERCIAL. More than twelve marijuana plants being grown on a lot or parcel." This is not true under any circumstance because "commercial" is solely defined by an act of commerce. Counselor, Wally Hicks must be held accountable for allowing this to pass, he has been previously told by in correspondence not to let it pass and he ignored the advice.*** The vast majority of cannabis farmers who cultivate 13 to 48 plants for their patients are medical marijuana growers who have not and will not sell their product under license by the OLCC. The county commissioners are entitled to their prejudiced, prohibitionist opinions, but they are not entitled to their own facts. There are lawyers who are reviewing this new issue which just surfaced a couple days ago, and the first comment by one said: "the legal definition of commercial is the difference between giving it away for free and accepting payment for it." It is unreasonable for the commissioners to perpetrate this fraud to seek to apply the results of the ballot question to the medical marijuana gardeners who will never enter commerce.

Ballot measure 17.81 (attached to this email) expressly excluded medical marijuana, and as such cannot be used to justify order 2017-034 nor the subsequent Ordinance 2017-002. ***And, ironically, what Measure 17.81 did ask the voters about, OLCC commercial cannabis farms, is not and has never been proven to be a problem whatsoever: there has not been one single complaint lodged against the 30 OLCC licensed cannabis farms located on Rural Residential lands!*** The commissioners justified their ballot question by referring to "conflicts between neighbors" and the asked the voters if it should be banned, however county officials, such as Julie Schmelzer, Community Development Director, said in emails and on the front page of the Illinois Valley News that there has **not been one** complaint against an OLCC farm located on Rural Residential lands. Measure 17.81 asked voters what to do about a non-existent problem, then used the results to form the basis of Order 2017-034. This is unreasonable.

For example of one obvious legal precedent about what is and is not considered "commercial," the Oregon Water Resources Department that permits water use

for commercial agricultural activities by issuing water rights has declared *"domestic wells can be used for medical and personal recreational when the product is not being sold. So if a medical grower is tracked in the METRC system but all of the product grown is given to patients a domestic well could still be used."* This is the common precedent set by the state of Oregon to determine if a crop is commercial and requires a water right: if it is being sold. ***For the commissioners to just make up their own definition of "commercial" to encompass medical marijuana is a deliberate and negligent act of political subterfuge to advance an agenda that could not otherwise be forwarded under normal course of government business. This is unreasonable.***

The county officials have also tried to build their prohibition of cannabis gardening on Rural Residential lands by falsely claiming on the record in public hearings they have over 1,000 "marijuana related" complaints. Well, it turns out they have nothing of the sort, indeed ***a recent Freedom of Information Act request turned up a very badly organized mailing list of reported locations of cannabis gardens compiled by a volunteer who was not an official county employee, and a list of 729 open code violations dating back 10-15 years that has a handful of records where it was "noticed" a marijuana garden was present but not the subject of the code violation!***

County officials have also sought to obfuscate the fact they have received a great deal of correspondence and comments protesting their ban on Rural Residential lands by saying in the media and in public hearings that all the comments they have received are "complaints," deliberately misrepresenting the very nature of this correspondence suggesting it was all from the anti-cannabis crowd! ***Ironically, for every so-called negative comment the commissioners claim to have received by a NIMBY, there is an equal and opposite opinion held by that cannabis gardener who was the subject of that comment.*** When have the commissioners ever shown even the slightest respect or concern for the cannabis farmers the way they do for the people who share their bias against cannabis?

Right about the time the results of the FOIA became public, the Grants Pass Courier ran an article about the so-called 1,000 "marijuana related" complaints the county officials repeatedly cited on the record during public hearings, and the newspaper had to print a correction days later. It said: "Josephine County Community Development Department Director Julie Schmelzer says the department has logged more than 1,000 marijuana-related complaints.(sic) although they have not been investigated. A report in the

weekend edition of the Daily Courier mischaracterized the complaints as valid." The Illinois Valley News broke the FOIA story in this week's paper.

Measure 17.81 and the false public claim of so-called "complaints" are the two foundation blocks the county commissioners have built their political ban upon, and they are going to be held accountable for their subterfuge that would result in widespread and prolonged economic damage to the residents of Josephine County. The state of Oregon allows local municipalities to regulate the time, place and manner of the activities pursued by the cannabis industry so long as the act is reasonable. ***It is not reasonable to ban cannabis gardening off Rural Residential lands when the evidence of sufficient negative public sentiment to justify such a political act does not exist the way they claim -- they have deliberately misused the ballot question results. It is worse than unreasonable, possibly illegal, that the commissioners have had to fabricate evidence and misconstrue public sentiment in public hearings and in the media to drive their political agenda that has not been proven to be in the public interest. The very act of political subterfuge is evidence that the ban is unreasonable.***

Surprisingly, the county commissioners have publicly admitted that it is true that there are only a few bad apples (rogue cannabis growers) ruining the perception of the small family farm cultivating cannabis in their home gardens, but then they say they need a law that shuts down every garden by comparing it to how we need laws against murder even though very few people commit murder. Cannabis farms are not murderous and cannot have the same legal philosophy applied to them as do murderers! Yet that is how we have been treated by the commissioners: as enemies of our own communities, they have made each of us out to be "persona non grata," where we live, and their public relations effort against us has been very hurtful and damaging. Some long-time elders in the cannabis community do not feel safe because of the virulent animosity cast their way by angry, resentful anti-cannabis residents who have become emboldened by the commissioners' inflammatory rhetoric. This is unreasonable because the county commissioners know better but say it anyway to drive their political agenda.

*MARK CLARK*

Exhibit 2  
WBS  
10/25/17<sup>o</sup>

**Wendy Watkins**

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**From:** Simon Hare  
**Sent:** Tuesday, October 24, 2017 7:24 PM  
**To:** Mark Seligman  
**Cc:** Wendy Watkins  
**Subject:** Re: Weekly business session

Mark,  
This will be entered into the record, but I will not be reading it aloud at the meeting.  
Thank you for your input.  
Simon

Sent from my iPhone

On Oct 24, 2017, at 7:22 PM, Mark Seligman <[mseligman1505@gmail.com](mailto:mseligman1505@gmail.com)> wrote:

----- Forwarded message -----  
From: "Mark Seligman" <[mseligman1505@gmail.com](mailto:mseligman1505@gmail.com)>  
Date: Oct 24, 2017 7:18 PM  
Subject: Weekly business session  
To: <[bcc@co.josephine.or.us](mailto:bcc@co.josephine.or.us)>  
Cc:

As has been your policy in the past please read my e mail at your meeting as i am not able to attend and would appreciate entering this into the record  
The present board will consider raising numerous fees on county residents. We have no say in this matter. All 3 county commissioners have supported a series of tax levies raising ones taxes at least 10%. You will have a legacy of being the biggest tax increase proponents in my 22 years here.  
Regarding your proposed cannabis regulations as the lawyers have warned you be careful because you are leaving the county open to large financial liability. You will be taking away private property rights from legal responsible cannabis growers based on unverified complaints. I remind commissioners deyoung and morgan you are not dealing with city residents as you did before as city councilors. We are a different breed in the county. You serve us and you need to take that seriously. Rep. Wilson has stated his opposition to your unreasonable time place and manner. I trust you will see the light of day and act in a reasonable manner. to avoid financial consequences. One would hope you see the value of an improved local economy and not try to disrupt it. Thank you Mark Seligman