



Board of Commissioners

Office: (541) 766-6800

Fax: (541) 766-6893

4500 SW Research Way

Corvallis, OR 97333

bentoncountyor.gov

**MINUTES OF THE MEETING
BENTON COUNTY BOARD OF COMMISSIONERS
TUESDAY, JANUARY 20, 2026, 10:00 AM**

Present: Pat Malone Chair; Gabe Shepherd, Vice Chair; Nancy Wyse, Commissioner; Vance Croney, County Counsel; Melissa Ryan, Land Use Counsel; Rachel McEneny, County Administrator; Rick Crager, Assistant County Administrator

Elected Officials: Ryan Joslin, District Attorney; Jef Van Arsdall, Sheriff

Staff: Rachel Bulder, Maura Kwiatkowski, Board staff; Cory Grogan, Carly Fredericks, Anne Thwaits, Public Information; Toby Lewis, Petra Schuetz, James Wright, Community Development; Erika Milo, Board Recorder

1. Call to Order and Introductions

Chair Malone called the meeting to order at 10:00 AM and introductions were made.

2. Review and Approve Agenda

The following item was added to the agenda under **9. Other:**

9.1 Order for Appointment to the Willamette Criminal Justice Council –
Gabe Shepherd, Commissioner

Item 9.1 was heard before **Items 7-9.**

3. Announcements

No announcements were made.

4. Comments from the Public

The Board did not accept public comment regarding LU-24-027, Application for a Conditional Use Permit for the expansion of Coffin Butte Landfill, as the official record had closed.

No comments were made.

5. Work Session

5.1 Floodplain Program Update - Toby Lewis, Floodplain Administrator, Community Development Department

Lewis reported that Benton County experienced wind and flood events on December 18-20, 2025. Public Information and Emergency Management staff issued advance information. Benton had some downed trees, but not much flooding. On December 24, 2025, a potential wind event was predicted, but did not reach Benton County.

Lewis described the County's responsibilities during and after storm events. Staff or community members should report damage as soon as possible. Staff will assess whether there is enough damage to request additional State or Federal resources. The public can submit information through an online tool at <https://orcg.is/zuDWX> or call the Community Development Department at (541) 766-6819. After collecting event data, each jurisdiction must assess the level of damage, regardless of whether the property is in the flood zone. When the property is in a flood hazard area, extra requirements apply to building repair and improvement. When the cost of building repair plus improvements totals 50% or more of the value before the damage, staff must help the owner ensure that the whole building complies with current flood hazard requirements.

The Luckiamute River Flood Hazard Mapping Project is done, the review of the Letter of Map Revision has been published, and the new map will take effect April 29, 2026. Lewis will notify area property owners. The Flood Hazard Mapping revision for the rest of the County was slowed by Federal shutdowns, but officials expect to begin providing official responses to questions about the draft maps by the end of February 2026.

Responding to a question from Malone, Lewis confirmed that the County is responsible for collecting the information from unincorporated Benton County. Benton County's event data is centralized with Emergency Management staff. Once the total cost of damage reaches a certain threshold, assistance can be requested from the State or Federal government.

Malone asked whether Benton County residents know it is helpful to report damage to create an accurate picture of costs of event repairs.

Lewis replied that more public awareness of post-event data collection would be helpful. Lewis recommended adding reminders to event response information to help people

remember to report damage.

6. Consent Calendar

- 6.1 Approval of the October 28, 2025 Board of Commissioners Information-sharing Meeting Minutes**
- 6.2 Approval of the November 4, 2025 Board of Commissioners Meeting Minutes**
- 6.3 Approval of the November 17, 2025 Board of Commissioners Meeting Minutes**
- 6.4 Approval of the December 2, 2025 Board of Commissioners Meeting Minutes**
- 6.5 Appointment of Elizabeth Beierle to the Courthouse Preservation Committee, Order No. D2026-038**
- 6.6 Approval of the January 8, 2026 Courthouse Preservation Committee Applicant Interview Meeting Minutes**

MOTION: Wyse moved to approve the Consent Calendar. Shepherd seconded the motion, which **carried, 3-0.**

7. Public Hearing No. 1

This item was heard after **Item 9.1.**

- 1. Amendment of Benton County Code Chapter 91, Regarding Mobile Food Units, Ordinance No. 2026-0328 - Petra Schuetz, Planning Director; James Wright, Associate Planner; Community Development**

Chair Malone opened the Public Hearing at 11:01 AM.

Staff report

Wright explained that this Board-initiated legislative amendment to Benton County Code (BCC) Chapter 91, LU-25-054, would add new sections regarding temporary Mobile Food Units (MFUs), also known as food trucks, in unincorporated Benton County, and clarify how and when MFUs are treated as land use. Currently, MFUs in Benton County are regulated for food safety and sanitation by Environmental Health and fire safety by local fire authorities. However, BCC does not clearly describe whether MFUs are allowed, where they are allowed, or whether land use permits are required. The only

clear land use option currently is to establish a permanent restaurant, which is not practical for short-term MFU operations. The Board has received public testimony expressing interest in allowing MFUs on a limited, temporary basis. The proposed amendment, Sections 91.570 to 91.575 of Chapter 91 of BCC, establishes clear minimum standards for the temporary operation of MFUs. No land-use permit is required for temporary MFUs in these zones: Agricultural Industrial; Rural, Urban, and Village Commercial; and Rural and Urban Industrial. County-sponsored events are exempt from land use review. A key component is that MFUs are allowed on a temporary basis, with 'temporary' defined as no more than 72 hours of operation per event, no more than 18 events per calendar year, and no more than two MFUs per event per property. This aligns with existing agritourism standards elsewhere in BCC and allows flexibility for short-term operations while preventing ongoing permanent use. Wright provided more details on operational standards, which were designed to ensure compatibility with existing uses and minimize impacts. Local fire agencies and Environmental Health retain regulatory authority over MFUs, hence staff felt there was no need to require additional land-use permits. Staff find the proposed amendment consistent with Goal 9 of local Economic Development because temporary MFUs support small and locally-owned businesses, support workers in agricultural and industrial areas, support tourism and special events, and provide flexible services without permanent development. The use is limited in duration, scale, and intensity. The Department of Land Conservation and Development and the Planning Commission were notified. The Planning Commission reviewed the proposal and recommended it to the Board of Commissioners.

Responding to a question from Shepherd, Wright replied that an MFU can leave its location during the operational period, because the property owner, not the MFU operator, applies for the permit.

Public Comment

No comment was offered.

Chair Malone closed the Public Hearing at 11:11 AM.

MOTION: Wyse moved to conduct the first reading of Ordinance #2026-0328, amending Benton County Development Code Chapter 91 regarding Mobile Food Units. Shepherd seconded the motion, which **carried 3-0**.

Counsel read the Ordinance aloud (short title). The second reading will occur on February 3, 2026, and the Ordinance will become effective on March 5, 2026.

8. Public Hearing No. 2

- 1. Reconsideration of Appeal, LU-24-027, Coffin Butte Landfill (CBL) Expansion** - Petra Schuetz, Planning Director, Community Development

Chair Malone opened the Public Hearing at 11:12 AM.

Malone explained that this was the continuation of the Board of Commissioners' Hearing after withdrawing for reconsideration the Board's November 17, 2025 approval of a Conditional Use Permit application from Valley Landfills, Incorporated to expand CBL. That approval was appealed in Land Use Board of Appeals (LUBA) #2025-082. On Dec 16, 2025, the BOC voted 3-0 to withdraw the November 17, 2025 decision for reconsideration, pursuant to ORS 197.830(13)(b). Because the record had already closed, no verbal testimony was taken at this time.

Shepherd disclosed the following ex parte contacts since December 16, 2025:

- Shepherd encountered multiple members of the public who wished to discuss Shepherd's previous vote on this matter.
- Shepherd received general questions from the public about the timeline of the reconsideration, some of which implied a hope that Shepherd would again vote against CBL expansion. Shepherd told those individuals that he would need to review the finalized record and could not make a decision until that time.
- The Board received about 24 emails starting on January 13, 2026, about a weather event that worsened landfill-related odors in the area. Some of the emails included complaints about the Department of Environmental Quality (DEQ) monitoring system failing and not accepting reports. Most of those emails did not contain testimony or information related to the record, but Shepherd thought it best to disclose those during this process.
- On January 16, 2026, the Board received an email from the Counsel for CBL operator Republic Services; on County Counsel's advice, Shepherd did not read the email or the attached letter.

Shepherd stated he could still make a fair and impartial decision.

Wyse did not open or view the email from Republic Services' Counsel. Wyse disclosed the following ex parte contacts since December 16, 2025:

- Wyse received the same odor complaint emails but forwarded most to staff. One email urged Wyse to vote against CBL expansion.
- Wyse received a telephone call from Ken Kupperman, who resides near CBL. Wyse asked Kupperman not to speak to her about his opinion on expansion, but Kupperman continued to urge Wyse to vote not to expand CBL.

Wyse stated that she could still make an impartial decision.

Malone also received the odor complaint emails, which he filed without reading. Malone disclosed the following ex parte contacts since December 16, 2025:

- Malone had a conversation with an individual from the Community of Alpine which briefly touched on the landfill topic. Malone told the individual that Malone could not engage in that type of dialogue, but could discuss his work on the State Solid Waste Task Force, as those discussions concern future planning.
- Malone received one text on January 19, 2026, from Bill Gellatly, Benton County resident, which mentioned CBL.

Malone stated he had striven to honor the ex parte restrictions and requested that Counsel set the timetable during this meeting for the end of the ex parte condition. Malone stated he had maintained a neutral position on this issue.

Malone asked whether anyone wished to rebut the substance of the ex parte communication.

Mark Yeager and Jim Fairchild, Benton County residents, posed questions to the Board that Ryan stated were not appropriate for the ex parte challenge portion of the proceedings.

Wyse asked Ryan to explain the rebuttal process.

Ryan explained that the statutory requirement is for Commissioners to disclose ex parte communications that occurred at the first opportunity to do so after the first hearing, and to rebut any part of the application.

Shepherd asked whether it was relevant for someone to state that there was an ex parte contact that was not disclosed.

Ryan replied that this challenge was only for the contacts that were disclosed.

Steve Michaels, Benton County resident, suggested that Ryan cite the Oregon Revised Statutes number for ex parte contact and conflict of interest.

Wyse noted her own disclosure of seeing an email urging her to vote against CBL expansion. Wyse asked Ryan whether an example of ex parte rebuttal would be if someone stated Wyse was not impartial due to reading that email.

Ryan confirmed, adding that Wyse's description of the email was adequate to comply with statute, although someone could ask for slightly more detail, such as: how many paragraphs was the email, was the tone polite, or did it urge Wyse to deny the landfill appeal. The citation regarding ex parte contact or bias resulting from ex parte contact is ORS 215.422. This in no way involves conflict of interest rules, which are completely separate.

Staff report

Schuetz shared that LUBA's rules require that the Board of Commissioners' decision on reconsideration be filed with LUBA no later than 90 days after the date of the notice of withdrawals filed, or within such other times as LUBA may allow. The Oregon Administrative Rules citation is 661.010-0021. On December 16, 2025, the Board of Commissioners set January 6, 2026, as the date for staff to return the decision to the Board. Staff subsequently determined that mailed and emailed public notice should precede any additional public hearing on the reconsideration; accordingly, at the January 6, 2026 meeting, the Board directed staff to move the Public Hearing to reconsider the decision to today, January 20, 2026. Staff prepared a tentative schedule for the reconsideration process for the Board's review and approval, which was in the meeting packet for today.

The DEQ letter was received by the County after the close of the original record. Because staff believed that the DEQ letter could be evidence that might relate to the BCC criteria for Valley Landfill's CUP application, staff recommended reopening the record to admit the DEQ letter and to accept evidence related to the DEQ letter. The law requires a fair opportunity to submit evidence and to respond to evidence, a clearly defined record closure point, and a final written argument opportunity for the applicant. The meeting packet includes a further explanation of that rule. Staff recommended that the Board leave the written record open for seven days, until January 27, 2026, for any party to submit evidence or argument related to the DEQ letter as it relates to the applicable BCC criteria for the CUP. Then, staff recommended that the Board designate the seven days until February 3, 2026, for any party to submit responsive evidence only to the evidence submitted during the first open record period. Next, staff recommended that the Board designate until February 10, 2026, for the applicant to submit final argument only, and no new evidence. Finally, the tentative schedule for reconsideration was in the packet. If the Board desired to keep its regular Tuesday meeting schedule and adopt findings on March 17, 2026, the County would file for an extension with LUBA, requesting that LUBA allow the County to file the decision on reconsideration on the 91st or the 92nd day. It is very likely that LUBA would grant the extension. Or, the Board could schedule the meeting to adopt findings on a different day, to meet LUBA's 90-day requirement.

Shepherd noted the Board's scheduled meeting would be March 17, 2026, one day after the 90-day period. The Board could ask LUBA for an extension, which would likely be granted, but Shepherd would prefer to complete the process within the original timeframe. Shepherd requested that the Board schedule a special meeting for March 13 or 16, 2026, depending on the Board's schedule.

Wyse asked about the process of requesting a one-day extension from LUBA.

Ryan replied the County would contact LUBA tomorrow detailing the adopted timeframe

and requesting an additional one to two days to transmit the Board's final decision on reconsideration. Ryan concurred with Shepherd that LUBA would likely grant the extension, based on similar requests granted in the past. The County would receive an answer by the March 3, 2026 meeting for deliberations, so the meeting schedule could be refined. If deliberations occurred on March 3, 2026, staff would have two weeks to prepare any written findings, which the Commissioners could potentially review by March 13, 2026, for the March 17, 2026 hearing.

Malone was inclined to maintain the regular Board Meeting schedule to avoid confusion.

MOTION: Wyse moved that the Board of Commissioners reopen the record to accept the DEQ letter into the record and leave the record open for seven days, until January 27, 2026, for any party to submit evidence or argument related to the DEQ letter as it relates to the applicable criteria in the Benton County Code; for an additional seven days, until February 3, 2026, for any party to submit responsive evidence only to the evidence submitted during the first seven-day open record period; and for seven days, until February 10, 2026, for the applicant to submit final argument only. Shepherd seconded the motion, which **carried 3-0**.

Chair Malone stated that the record was now open for the limited purpose of accepting the DEQ letter and other written evidence and argument to be submitted during the open record periods. Malone provided additional details, including how the public would be notified through a press release, the County's CBL webpage, and an email notification to all interested parties.

Chair Malone continued the Hearing to March 3, 2026, at 11:00 AM, in the Holmes and Shipley Board Room at 4500 Southwest Research Way, Corvallis, Oregon.

MOTION: Shepherd moved that the Board of Commissioners schedule a meeting on March 13, 2026, or March 16, 2026, for final adoption of findings. **The motion died** for lack of a second.

Wyse expressed a willingness to consider Shepherd's motion again if LUBA did not grant the County a one-day extension.

9. Other

9.1 *Order for Appointment to the Willamette Criminal Justice Council – Gabe Shepherd, Commissioner

Shepherd presented an Order to appoint Kristen Dewey to the Executive Committee of the Willamette Criminal Justice Council (WCJC). In April 2025, WCJC appointed Stephanie Miller, then Executive Director of the Center Against Rape and Domestic

Violence (CARDV), to WCJC Position Nine, a representative from a victim services non-profit organization. Miller subsequently resigned from CARDV. Dewey, CARDV's Interim Executive Director, wished to fill the WCJC position.

MOTION: Shepherd moved that the Board adopt Order #D2026-039, appointing Kristen Dewey to the Willamette Criminal Justice Council. Wyse seconded the motion, which **carried 3-0**.

{Exhibit 1: Order for Appointment to the Willamette Criminal Justice Council}

Chair Malone recessed the meeting at 10:27 AM and reconvened at 11:01 AM with **Item 7. Public Hearing 1.**

10. Adjournment

Chair Malone adjourned the meeting at 11:45 AM.



Pat Malone, Chair



Erika Milo, Recorder

* NOTE: Items denoted with an asterisk do NOT have accompanying written materials in the meeting packet.