

## Legal Counsel Update June 7

After discovering last week that, by some fluke or design, the law enforcement firing range was to be relegated to a strip of land along Interstate 5 in the Sportsman Park, Josephine County Commissioners brought the contract between the Sportsman Association and the county back to the table for revision. Commissioner Dan DeYoung said he didn't want the Association to pick out where law enforcement should go. Commission Chair Herman Baertschiger said the whole facility should be open to law enforcement. Commissioner Darin Fowler was absent. After consulting with County Property Manager Helene Lulich about exactly where the law enforcement range is compared to the parcel allocated for it, Commissioners directed County Counsel Wally Hicks to amend the contract to make sure the law enforcement range doesn't have to be moved. Hicks is working with the Association's attorney on the contract.

Next, Commissioners heard a request from AllCare Health, administrator for Affordable Health Care Plans, to administer psilocybin to patients, especially veterans, in a clinical setting for treatment of PTSD. Public Health Director Mike Weber introduced an Affordable Care administrator, Erin Porter, who made the request. This sparked pushback from Commissioners, Sheriff Dave Daniel and Community Development Director Mark Stevenson.

"Oh great. Great. We've got everything else legalized. We got 500 percent overdoses in Josephine County; 700 percent increase statewide. This is just working out wonderful," said Baertschiger.

Weber explained the measure passed by voters legalizing psilocybin does not allow its use outside a clinical setting and gives counties the option to opt out of legalizing it within their borders.

Baertschiger asked what psilocybin is, even though it was on the ballot as Measure 109 in November of 2020. Porter explained it is a substance derived from mushrooms that "a large body of research" shows has been found useful to treat resistant mental health diagnoses, PTSD being one of them." She said the Oregon Health Authority has established a series of rules required of any medical providers who are going to administer it.

"Is this in a trial? What are the feds telling us about this? What's coming out of the federal government?" asked Baertschiger.

DeYoung asked how it is administered. "Is it a needle? Do you smoke it? Rub it on your..."

Baertschiger interrupted laughing..."It grows on manure piles so that's where it grows."

Porter said it is given orally by capsule in a supervised setting and is not legal for recreational use. This prompted DeYoung's concern: "I'm all for fixing depression, PTSD and all that other stuff but every time we've done something like this it ends up everywhere else. We just hand 'em out like candy. Instead of trying to curb the production of heroin and the sale of heroin and everything else, we're just trying to make it safe for everyone to go ahead and use it. And I don't know about this stuff. I'm assuming...you say it's a mushroom? Before you know it it's just like our answer to heroin addiction is to give needles out so people don't get sick from the needles.

From sharing needles. And now we got needles all over the place, our park....” Baertschiger interrupted, “That’s why I said it grows on manure piles. I’m way out of my wheelhouse. I know virtually nothing about this issue to make any decision about it.”

DeYoung asked, “Is Sean Hall out there? Maybe he’s got some background. He seems to know everything else.”

Weber offered to do a presentation with some experts next week. “I don’t even know how this is winding up in the County Commissioners’ Office,” Baertschiger complained“.

Hicks said Measure 109 requires Commissioners to adopt an ordinance that allows the use of psilocybin in the county or refer the matter to voters to decide whether or not to allow the establishment of psilocybin service centers. He said the deadline for getting it on the November ballot is July 12.

“Wally, listen. The Legislature regulates all parts of marijuana. Why are they weighing in on this? Baertschiger asked.

Weber said “how it’s been described to me, it’s been decided at the state level but they wanted to give counties the option to opt out.”

“This is pretty heavy hitting for a Board of County Commissioners who don’t....we’re not playing doctor, never had played doctor, don’t want to play doctor, don’t want to be a therapist, don’t want...and this has been set up so we have to make this all-important health decision and I’m a little leery of that. Really leery, DeYoung said referring to issues he believes prompted his attempted recall last winter.

Baertschiger echoed DeYoung’s concerns, “We get no direction out of the federal government. We get no direction out of the state. Just a year ago I was reminded that I was not a doctor so this is way out of my wheelhouse.”

After squealing out “I don’t have any information!” Baertschiger did say he knows psilocybin is a hallucinogenic and he’s read about people doing crazy things while on it. “Man, this is...I’m very uncomfortable with this, really uncomfortable with it.”

Weber promised to enlighten them next week.

Sheriff Dave Daniel, on Zoom, spoke up “My statement is here we go again. Oregon is the only state to legalize this. We’re not set up to regulate or enforce it. Like marijuana, they’re putting the cart before the horse. I don’t want anything to do with this industry in Josephine County. Nothing. None of it. I don’t’ want it here. I don’t want it grown here. I’d like to see it gone because we’re not ready for it as a state. And it’s certainly just another issue for law enforcement to address. So I’m very adamant. I want to see...the only way to opt out on this is to put this to a vote of the people. Otherwise, we opt in automatically. And then we have no local control over it at all. Whatsoever. And neither does the state cause they’re not even gonna be regulating it for a while. So, same thing as the marijuana, it impacts our community, our county and I don’t want anything to do with this in Josephine County. I’d like to see the Board of County Commissioners put this to a vote of our county and our people. If they want it, so be it. I’ll listen to ‘em and I’ll

go right along with 'em cause that's my job but until that takes place, at least a vote of the people, I'm out and I don't want it and I'm very adamant about it."

Stevenson, also on Zoom, backed up Daniel. "I completely concur with Sheriff Daniel. Fifty-three-point-seven-percent of Josephine County voters voted no for this when it was on the ballot. I completely agree. We're going to wind up in the same quagmire that we are now with marijuana. This is not just growing it for the clinic. This, I believe, would create a huge black market again out of our county with all the issues that come with that: land use as well as building safety as well as law enforcement. It appears we can opt out but let's put it to a vote and let the citizens choose whether we opt out or not. If the citizens choose not to opt out then we're gonna need regulations in place for time, place and manner because it will allow us to do time, place and manner. So we can limit it to ag land or whatever and have some kind of control over it rather than just what happened with marijuana and the nightmare that brought."

"Great. Wonderful. So the question on the ballot is 'Should Josephine County legalize psilocybin products?'" Baertschiger said.

Hicks said if they want this on the ballot it should be two separate ordinances. One addressing manufacturing and one directly addressing services. DeYoung said if it goes on the ballot it should be put in clear language people understand, "so people don't get tricked like recently."

Baertschiger, after saying he knew nothing about psilocybin, admitted his own personal observations of people on psilocybin "from high school and college" weren't good ones.

Weber promised to come back next week with a "deep dive" into the world of psilocybin as a medical tool. Hicks was directed to come back with draft ordinances. He said if Commissioners want this "we have to start today."

Commissioners weren't through with Hicks. He was also tasked with putting together a ballot measure asking voters to approve a sales tax to support the sheriff. Hicks is already working on two other ballot measures that would ask voters to approve a levy or a special district to fund the sheriff, who is desperate for funds to keep his patrol going. Commissioners felt a seasonal sales tax had a good chance of passing if the City of Grants Pass was carved out. DeYoung, who lives in the city, said "those people" won't want to pay for the sheriff. They already pay a lot for law enforcement in the city, he said.

Baertschiger worried the state would "torpedo" the sales tax effort if they hear about it. The legislature might pre-empt it, he said. Commissioners may not put all three ideas for funding the sheriff on the ballot but they want to "bookmark" space for them there.

Winding up their meeting in the conference room at Ann Basker, DeYoung and Baertschiger heard a report about a cell tower on county land the company that owns it wants to improve. County Forester Dave Streeter said the tower is located on land with minimal value as a timber resource and the improvements won't "expand the tower's footprint." He said leasing land for towers brings \$50 to \$60 thousand dollars to the forestry department. He told Commissioners he saw no need to charge the company additional rent because it isn't using any more land than it has now.

Weekly Business Session, June 8

This short meeting finalized the contract between the Josephine County Sportsman Association and Josephine County after a public hearing. After listening to the changes Hicks made to insure law enforcement can keep its firing range where it is now, all three Commissioners voted to approve it. Hicks said this was the “second step” in transferring the Sportsman Park’s 245 acres east of Interstate 5 near Merlin to the Association, but it essentially finalized the deal. The third step is apparently approval of the contract by the Association board. Earlier Commissioners hinted that the contract approval would be followed by another public hearing for the transfer.

Before casting his vote in favor of the transfer, Commissioner Fowler wanted assurance the giveaway, with improvements financed by an \$11,000 federal grant, wouldn’t jeopardize future grants. Hicks read a provision in the National Park Service’s grant guidelines that says “The law is firm but flexible. It recognizes the likelihood of some changes and development over time, particularly in rapidly changing urban areas. At the same time the law discourages casual “discards” of park and recreation facilities by insuring that changes or “conversions” from recreation use will bear a cost that assures taxpayers that investments in the national recreation in the state will not be squandered.”

Hicks said he is going by that provision since he has been unable to get advice from the Department of Interior on the matter and neither has Congressman Cliff Bentz. Baertschiger noted “probably an \$11,000 grant given 30 years ago is not a high priority.” DeYoung said he can’t imagine the Department doesn’t have a “depreciation schedule.”

Hicks noted the grant basically wants the taxpayer’s money going to something that will stay in public use and the Sportsman Park does that.

Before calling for a vote, Baertschiger had a comment, “I noticed in reporting it says this is a giveaway. The only thing we’re giving away is our liability and costs...thank you Sportsman Association. And the second thing is, it should be noted, after discussion with the Assessor, that over half a million dollars in that \$1.2 million value is the Sportsman Association’s improvements. So, we’re not giving that away. And the other thing I asked the Assessor, if that property was converted how much would it cost for the mitigation, environmental mitigation, and she said we cannot take that into accounting until we have a number so this is not a “giveaway” of \$1.2 million dollars of the taxpayer money.”

No one commented during the public hearing on the contract or during Public Comments.

In Matters from the Commissioners DeYoung talked about car shows and Fowler said he met with the Cannabis Advisory Board where he learned there have been fewer applications to grow marijuana this year. He wasn’t sure what caused this but did say some on the Board thought it may be the weather or a trend toward smaller grows that don’t attract as much attention. Baertschiger reminded everyone of his Wildfire Symposium Tuesday, June 14 at 6 pm.

For the second week in a row there was no Bill and Herman Show on KMED. However, right-wing talk show hosts complained about Drazan and her RINO votes in the legislature, Betsy Johnson changing her support for assault weapons after Uvalde, and groused about the state replacing “a bisexual midget with a communist lesbian” if Tina Kotek is elected governor. The January 6 hearing last Thursday was barely mentioned.