

BEFORE THE BAKER COUNTY BOARD OF COMMISSIONERS

IN THE MATTER OF:)
)
AN ORDINANCE ESTABLISHING)
A PROCESS FOR BAKER COUNTY)
INPUT TO STATE AND FEDERAL)
PLANS, PROGRAMS AND PROJECTS)
AFFECTING LAND AND NATURAL)
RESOURCES IN BAKER COUNTY)

Ordinance No. 2001- 1

Entered

9-20 2001

County Court Journal

Jamara J. Green County Clerk

By *Karin Phillips* Deputy

Recitals:

1. Baker County has the primary responsibility for securing and promoting the public peace, general welfare, health and safety of the citizens of the County through preservation of their customs, culture and economic stability, protection and use of their environment, and protection of their private property rights.
2. Preservation of the customs, culture, and economic stability of the citizens, and the protection and use of their environment, are inseparably tied to their ability to influence any regulation of their rights to use and enjoy their unique lands and natural resources.
3. The capacity of the environment is limited. It is the intent of the Board of Commissioners to take immediate steps to protect the quality of the environment and economic stability which supports its citizens' customs and culture.
4. Effective management of natural resources requires coordinated efforts between private citizens, corporations, and public agencies.
5. State and federal agencies developing plans, programs and projects which may affect private citizens who contribute to the economic stability of Baker County, shall assure that serious consideration is given to protecting the environment without depriving county citizens of their economic stability and private property rights and way of life.
6. The customs, culture and economy of Baker County are often significantly affected by federal and state plans, programs and projects. Many of these effects could be eliminated or substantially reduced through an effective, coordinated review process prior to implementation.
7. Federal and state statutes, as well as presidential executive orders, provide the framework for coordinated planning between Baker County and state and federal agencies. Federal

statutes and regulations require federal agencies to coordinate their initial planning efforts with local governments.

8. The Intergovernmental Cooperation Act contains specific coordinated planning requirements for local, state and federal agencies. 42 U.S.C. 4231. Presidential Executive Order 12372 requires federal agencies to coordinate actions and projects with local governments so that local impacts arising from federal projects may be identified.
9. State agencies such as, but not limited to, the Department of Environmental Quality, the Oregon Water Resources Department, the Department of Fish and Wildlife, the Department of Land and Conservation Development, the Department of Agriculture and the Department of Forestry are required by various statutes and administrative rules to coordinate their activities with local governments.
10. In order to carry out the policies and objectives of state and federal plans, programs and projects, it is necessary for ALL agencies to comply with the provisions and policies of this ordinance, including any rules and regulations promulgated hereunder, as well as the applicable provisions of state and federal regulations such as NEPA, the Clean Air Act, and the Clean Water Act, as well as the rules of each state agency which require varying degrees of local participation and coordination.

Based on the above recitals, the Board of Commissioners ORDAINS as follows:

Section 1. Purpose

Adoption of this Ordinance is necessary to secure and promote the public peace, general welfare, health and safety of the citizens of Baker County through preservation of their customs, culture, and economic stability, protection and use of their environment, and endorsement of their constitutionally protected private property rights.

The purpose of this Ordinance is to assist federal and state agencies in coordinating their planning activities with Baker County consistent with applicable obligations under state and federal law.

The provisions of this Ordinance shall be in addition to and coordinated, to the extent possible, with the Baker County Comprehensive Plan, as well as existing and future county ordinances, resolutions, policies and plans. In the event this Ordinance conflicts with such other ordinances, resolutions, policies and/or plans, the provisions of this Ordinance shall be given effect to the fullest extent possible.

The customs and culture associated with local industries such as agricultural and livestock production, timber and wood products production and the use and extraction of mineral resources, as well as the customs and culture associated with resources including, but not limited to, cultural resources, recreation, wildlife, wilderness, clean air and water resources and the

utilization of mineral resources, as well as access thereto, are significant to the preservation of the customs, culture and economic stability of its citizens and protection and use of their environment.

Section 2. Objectives

Eight primary objectives have been identified:

1. To disclose to decision makers and the public significant consequences of proposed actions of state and federal governmental agencies on nature, society, customs and culture, property rights, and economic stability of Baker County.
2. To identify means to eliminate or mitigate adverse impacts to the environment, including nature, society, customs and culture, property rights, and the economic stability of Baker County.
3. To prevent injury to the environment by requiring implementation of reasonable alternatives or mitigation measures.
4. To ensure intergovernmental coordination and cooperation.
5. To minimize conflict between Baker County and state and federal agency personnel.
6. To encourage public participation and education in review processes.
7. To plan and manage natural resources consistent with environmental and community standards and for the public good.
8. To ensure that public safety concerns are addressed to the satisfaction of Baker County, and that federal law enforcement actions that may affect the nature, society, customs and culture, property rights, or economic stability of Baker County are coordinated with local law enforcement officials.

Section 3. Procedures

In order to achieve the objectives listed above, the following shall apply to all state and federal plans, projects and programs that affect or have the potential to affect the use of land or natural resources within Baker County, including the acquisition and disposition of land itself, to the fullest extent required or permitted by law, all federal and state agencies shall:

1. Notify Baker County of any proposed action prior to the initial planning phase of the proposed action.
2. Consider the effects such actions have on (i) community stability; (ii) maintenance of

customs, culture and economic stability, (iii) conservation and use of the environment and natural resources, and (iv) access to natural resources, and provide Baker County with a detailed assessment of these effects. The assessment shall include, at a minimum, an analysis of the impacts on:

- A. forest and timber resources;
- B. range or dry land crops;
- C. livestock grazing rights on private and public lands;
- D. watershed resources;
- E. water rights and irrigated cropland;
- F. air, water (including surface and groundwater), energy and soils;
- G. integrated resource planning and management in which the county, private parties and/or other public agencies are involved;
- H. multiple use, sustained yield and range resource laws and regulations and grazing rights;
- I. private investment in public land and resources;
- J. hunting, fishing and other outdoor recreation;
- K. the society, customs and culture of the county, as well as schools and other local public services, including:
 - i. impacts on culture due to population loss or relocation;
 - ii. impacts from proposed or foreseeable limitations or restrictions on cultural beliefs and practices, and maintenance of cultural and community cohesion;
 - iii. impacts on cultural and community aesthetics, including historical natural resource vistas, river ways and landscapes;
 - iv. impacts on the ability of local government to protect the health, safety, social and cultural well being of its citizens;
 - v. impacts on the ability of local government to promote local environmental values, resource protection and development;
 - vi. impacts on the ability of local government to finance local public programs and services through bonding, lending and other fixed mechanisms;
 - vii. identification of tax revenue loss to local government and schools;
 - viii. impacts on local emergency medical services, law enforcement, fire protection and nuisance abatement;
 - ix. impacts on local government infrastructure, including transportation, landfill services, and public water systems, including those provided through irrigation and reclamation districts;
 - x. cumulative and long term impacts on local community stability and well being.
- L. Local economy, customs, services and businesses, which shall include:
 - i. impacts on private, investment expectations;
 - ii. impacts on the economic value of water rights and real property;

- iii. direct and cumulative impacts on employment and wages;
 - iv. direct and cumulative impact on agriculture, timber and related industries;
 - v. direct and cumulative impacts on local retail and service industries;
 - vi. impacts on housing and related residential services such as water, sewer, sanitation, energy and communications;
 - vii. thresholds for business demand and markets;
 - viii. direct and cumulative impacts on community stability and well-being related to private ability to maintain current and future debt service.
3. Coordinate procedures with Baker County as equals;
 4. Establish intergovernmental agreements with Baker County prior to the commencement of any proposed action. Such agreements shall include the development of a system of timely notification to the County. An intergovernmental agreement which proposes to comprehensively address the goals and objectives of this ordinance may be utilized as an alternative to the procedures established herein;
 5. Consider alternatives which would reconcile proposed action with the County's laws, policies and plans and take all practical measures to resolve any conflict;
 6. Take appropriate measures, with the concurrence of the County, to mitigate adverse impacts on county culture, customs, economic stability, and the land and natural resources. Proposed mitigation measures shall, at a minimum:
 - A. Identify each impact which the mitigation measure is intended to address;
 - B. Identify the party or agency responsible for the implementation and monitoring of the proposed mitigation measure;
 - C. Specify, for each mitigation alternative:
 - i. how impacts may be minimized by limiting the degree or magnitude of the proposed action;
 - ii. how impacts may be rectified through repair, rehabilitation or restoration of the affected environment;
 - iii. how impacts may be reduced or eliminated over time through preservation and maintenance over the life of the proposed action; and
 - iv. how the agency could compensate for the impact by providing substitute resources of equal economic value.
 - D. Specify, for each mitigation measure, its legal authority, technical feasibility, fiscal and economic feasibility, and social, political and cultural feasibility;
 - E. Draft a detailed mitigation monitoring plan which shows, as to each mitigation measure, specific objectives and performance standards to ensure implementation of mitigation measures during the life of the plan, program or project.

7. Avoid taking actions that are inconsistent with the Baker County Right to Farm Ordinance.
8. Avoid taking actions that have the effect of obstructing or making agricultural and livestock production or timber and wood products production or mineral extraction economically infeasible in Baker County.
9. Act to preserve important historic, cultural and natural aspects of our County heritage, as determined by Baker County.
10. Avoid taking actions affecting recreational, cultural, wilderness and wildlife opportunities within Baker County that are incompatible with the local customs, culture and economic stability or preservation and use of the environment.
11. Consider the historic and current use of water when the proposed action could have an effect on existing water rights or uses and coordinate any actions which may affect the management of river flows, sources or uses of irrigation water within the County.
12. Coordinate the acquisition of water rights with the County to ensure that all water rights are protected.
13. Coordinate with the County in the planning and management of the County's natural, cultural, economic and environmental resources related to air and water quality.
14. Comply with all laws, case law, statutes, regulations, rules and guidelines concerning protection of private property rights in Baker County.

Section 4. Enforcement

The Baker County Board of Commissioners may request the Prosecuting Attorney to bring an action to enforce this Ordinance in any court or administrative tribunal of competent jurisdiction and to seek cumulative remedies, including any criminal or civil penalties allowed by law, equitable relief and monetary compensation when the county tax base or the general welfare or health and safety of the citizens of the county is at issue.

Nothing in this Ordinance shall be construed to limit any remedy that any person may have under the laws of the State of Oregon or of the United States.

Every person, who under the color of law, statute, ordinance, regulation or customs, willfully subjects any person within Baker County to the deprivation of property rights secured or protected by this Ordinance shall be guilty of a misdemeanor punishable by not more than 30 days in jail, a \$500 fine, or both. Every day in which a person is subject to a deprivation of property

Rights secured by this Ordinance constitutes a separate violation.

The Board of Commissioners may, by resolution, exempt any action or area of action from compliance with this Ordinance

Section 5. General Provisions

In addition to the procedures outlined above, the County shall:

1. Adopt such administrative rules and regulations as necessary to carry out its objectives;
2. Establish an oversight committee to assure that the intent and purposes of the procedures established by this Ordinance are maintained. The basic function of the committee shall be to monitor federal and state actions and advise the Board of Commissioners regarding compliance by such agencies with this Ordinance.


Section 6. Severability

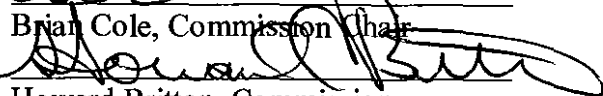
If any section, subsection, sentence, clause, phrase or portion of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, that decision will not affect the validity of the remaining portions of this Ordinance.


Section 7. Emergency Clause

This Ordinance being necessary for the health, welfare, and safety of the citizens of Baker County, it shall take effect immediately upon passage.

Baker County Board of Commissioners


 Brian Cole, Commission Chair


 Howard Britton, Commissioner


 Tim Kerns, Commissioner

Approved as to form:

