

## Hospital

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session's agenda had been posted on the hospital district's web page with at least 24 hours' notice. As of last week, however, the board's website did not show agendas for either the May 9 or May 16 meeting.

Jack Orchard, a lawyer from Ball Janik LLP in Portland who specializes in public records and open meetings law, disagreed with the notion that posting notifications in the hospital cafeteria was all that was required.

"Posting in the cafeteria does not appear to be even close to satisfying the meetings law's requirements," Orchard said.

Orchard said the board should have notified the newspaper in advance of both meetings.

"Why newspaper notice was not provided seems to be a large oversight," Orchard said.

He said he was skeptical of the need or legal reason to hold an emergency or special meeting. If the board knew that the CEO matter was pending and Daley was to remain on the job until Aug. 3, the board had no basis under the law to hold a special emergency meeting, Orchard said.

### Public and private sessions

Orchard also questioned why so much of the board's discussion about hiring a new CEO took place in executive session.

State law explicitly allows a public body to meet privately in an executive session — where the public is barred and reporters are instructed not to report on the proceedings — only in certain narrowly defined circumstances. The statute also makes it clear that no final action or decision can be made during an executive session.

Public bodies can meet in an executive session to "consider the employ-

ment of a public officer, employee, staff member or individual agent," the law says. However, if the position to be filled is a CEO or public officer, the public body must first advertise the vacancy and then — in an open session — approve hiring standards, criteria, compensation and policy directives. It must also allow opportunity for public comment.

Compensation, Orchard stressed, cannot be discussed behind closed doors.

It appears the board did not comply with all of those requirements.

According to the official minutes, the board went into executive session for nearly an hour at the beginning of the May 9 meeting, then went into open session for three minutes — just long enough to accept Daley's resignation by a unanimous vote — before adjourning. On May 16, the board spent 29 of the first 30 minutes in executive session. The meeting adjourned at 6:37 p.m.

It remains unclear when Kreger actually reached out to offer Marlowe the CEO job, but Kreger said she announced Marlowe's hiring at the May 26 regular board meeting. Still, the meeting minutes do not reference the hiring of a new CEO.

The board was already familiar with Marlowe from his previous stint as the hospital district's chief financial officer between 2018 and 2020. According to the May 16 minutes, Marlowe was a "prospective and vetted" candidate from an earlier CEO search.

A little over a year ago, the hospital district opted not to renew the contract with its longtime management company, HealthTechS3 Management Services. The management firm had come under harsh criticism from patients for long wait times to see providers, lost referrals and generally poor customer service.

Daley was the hospital district's CEO at the time, but he was an employee of HealthTechS3, and it wasn't clear

whether the district board would be able to hire him away from the management company. Kreger said the board considered Marlowe for the position in a few closed-door sessions.

Ultimately, the board voted to hire Daley as the hospital district's CEO and signed him to a two-year contract that paid him \$273,000 yearly.

Under terms of the board's contract with HealthTechS3, the district paid a flat fee of \$90,000, roughly 33% of Daley's salary, to hire him away from the management company. Daley became an employee of the hospital district on April 1, 2021.

### First CEO search

Kreger pointed out that Marlowe's hiring was the first time the board had hired a CEO independent of HealthTechS3.

In the past, she said, the hospital district did not have anything to do with the search and vetting process, because the CEO — as was the case with Daley — was an employee of HealthTechS3.

"Our human resources department and our board had nothing to do with (finding and hiring a CEO)," she said. "The management company) would bring a candidate for us to preview."

Nonetheless, multiple sources have told the Eagle that a significant number of hospital staff were upset at being left out of the hiring process this time around.

Kreger disputed that claim, saying that the CEO search was not a secret around the hospital and the staff was welcome to engage, ask questions and share their thoughts about the process.

Kreger noted that the CEO transition was prominently displayed on the agenda for the June 22 regular board meeting. At that meeting, the board voted to change Daley's final day with the district from Aug. 3 to July 22 and change Marlowe's first day on the job from July 11 to June 27.

However, she said, those in atten-

dance at the meeting were mostly — if not all — supervisors and staff that were required to attend. Additionally, she added that the board makes efforts to engage with the hospital staff.

Kreger defended the board's performance in hiring the district's new chief executive. She said a quick hire allowing Marlowe and Daley to overlap was "extremely important" for a "smooth transition for the organization." Also, she added, the hiring of Marlowe allowed the district to avoid recruiting costs, which can include travel and lodging expenses for job candidates and their families.

Moreover, Kreger said, the hospital district's legal counsel, Amy Robinson of Miller Nash LLP, advises the board in all hospital business — including Oregon Public Meetings Law — and she maintains the board's actions broke no provisions of open meetings law.

The Attorney General's Public Meetings Manual concedes that strict compliance with the requirements of open meetings law may "sacrifice speed and spontaneity for more process and formality."

Even in an emergency situation, however, the law still requires public bodies to meet certain requirements for public notice and access.

"It appears someone got in a hurry and just wanted to 'get business done,'" Orchard said. "That's not our public meetings system. That takes the public largely out of the process."

### Why public access matters

In addition to the Blue Mountain Hospital, the Blue Mountain Hospital District operates Strawberry Wilderness Community Clinic, Blue Mountain Care Center and Blue Mountain Home Health and Hospice Agency. The hospital district has about 250 employees.

As a taxing district of Grant County, the hospital district receives a share of the county's property tax revenues.

According to County Assessor David Thunell, the hospital district was scheduled to receive just over \$1.4 million for the 2021-22 tax year.

The U.S. system of government requires all states to conduct government business in the open, unless there is an extraordinary reason not to do so, Orchard noted.

With that, he said, the public gets an opportunity to be notified of a public meeting, observe what happens there, and access — after the fact — a record of what happened.

Because the hospital is a publicly funded entity with publicly elected directors, the three aspects of hiring a CEO — setting compensation, adopting the hiring procedure and voting on the hiring of the individual — are public business matters that must be conducted in an open setting and allow for public comment.

"It's simple," Orchard said, "the contract is a public contract and the public needs to be able to observe how that public contract was adopted."

Because compensation of the hospital district's CEO involves public resources, he said, the people have a right to understand what public resources are being committed.

"That doesn't mean the public can stop it, necessarily," he said.

However, there needs to be an open forum where the public body carries out a process that tells people the public body is hiring a new CEO and is going to pay this person a certain amount of money. Then, he said, the public has a right to share its opinion — favorable or not — about the decision. Either way, Orchard said, the people have a right to comment.

For instance, Orchard said, the public can express its displeasure if the board decides to pay the new CEO more than the one before and can demand to know the reason for the increase.

"The public has the right to ask those questions," Orchard said.

## Housing

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lead to erosion that would impact the houses below it.

Lots in Canyon Mountain Heights range in size between 8,000 and 20,000 square feet. The prices will fall between \$25,000 and \$75,000 each, depending on size and location.

"I think my pricing is very fair right now, considering I break it down by the square foot. I think the price of these lots is comparable to what real estate was in 2018," Ward said.

"I'm not going to try to make a fortune on this. If I was going to be rich it would've happened years ago. I'm just happy to have a project that I can make a little bit of money and people can afford it because it's tough right now, especially for young families."

Nine lots have already been sold in addition to the 10 homes that were in the development previously. Ward has also started building the future home of Louis Dix, the new superintendent of the Grant School District. Dix purchased the first lot from Ward following his acquisition of the subdivision.

Getting from that initial purchase of a pair of lots two years ago to now owning the entire development and selling developed lots wouldn't have happened if a partnership with previous investors for Ward to manage the property hadn't fallen apart.

"It got to be the 11th hour (and) two of the investors were saying, 'We're not so sure that the end game is here. How are we going to make our money and how is Bruce going to make money?' So it fell apart."

Not long after that partnership fell through, however, Ward got a call from a friend in Salem he's known for 50 years who had heard about the project and wanted to help with funding for the development.

"This thing just fell right back into my lap," Ward said. "It could not have been a better fit for me. I couldn't be luckier that I found the players that I've found."

### Making a neighborhood

Lots in Canyon Mountain Heights will have a declaration of covenants, conditions and restrictions. The CC&R's don't mean the development will fall under a homeowners' association, however, and Ward said there won't be any fees or dues required to reside in the subdivision.

"Some people say, 'We're in rural Eastern Oregon and why do we want to live in a subdivision like Salem or Portland?' Well, there are a lot of people that want to live in a subdivision with nice, well-kept homes. Not everybody wants a 5-acre tract," Ward said.

Despite the CC&Rs, Ward said potential homebuyers aren't locked into the steel-framed homes he typically builds and can hire their own builders following the purchase of a lot.

"We still have to have an oversight on what they're building," he added. "On the east side of the street they have to be one-story homes so you aren't blocking the view (of Canyon Mountain) on the west side."

Ward said every lot in the planned subdivision has a view of the mountain.

### Putting it all together

Ward thinks he'll find a ready market among people wanting to leave the city for

the small town lifestyle to be found in Grant County.

"People are just sick and tired of the big city," he said. "Even ... in Pendleton, the traffic drives me nuts. I lived in Salem for four years and commuted to Portland and Seattle, and I just can't stand it. People want to live like we do."

Ward said he recognizes some local residents are leery of outsiders, but he doesn't think they have anything to worry about.

"I made a comment once and I said, 'You know, the next person who comes to our community and loves it as much as I do or loves it as much as the very first person who ever came to this community has every right to be here and as much of a right as I did or the first guy, as long as you're here and you're contributing in a positive way.'"

Ward said he got pushback for those comments, with people saying not to encourage others to move into the area.

"Why wouldn't they love it?" was Ward's response. "Why wouldn't they want to live here? I do, you do. As long as they're contributing. Let's welcome people here to live our lifestyle, but don't try to change us."

"We need diversity and we need fresh thoughts, but in a positive way to improve our lifestyle," he added.

There are some previous homeowners in the area that have concerns about the development of the land because they haven't had neighbors for years, according to Ward.

Ward said that was inevitable and if he hadn't started developing that land, somebody else would have. "I'm trying to be as understanding

as I can but I have to make this thing work," he said.

### A boost for Canyon City

Talk of adding over 40 homes to a community the size of Canyon City is bound to draw attention. Canyon City has a population of 694 residents following the last count in 2020.

That many new occupied homes mean increased property tax revenue for Canyon City and increased spending throughout the county.

Canyon City Mayor Steve Fischer said the subdivision is going to be a welcome addi-

tion to his town.

"Oh, it's wonderful for Canyon City," he said. "What we try to do is make it easier to build here. We don't have additional fees and permitting and things like that, other than your state-required building permits, where John Day has different fees and different requirements. For Canyon City, it's going to be a boon."

Fischer said the goal of the city is to make homebuilding an affordable endeavor.

"All the system development charges are included with those lots," he added.

"If you build anywhere else in Canyon City, those system development charges are about \$3,600. In John Day, they're \$7,400. We've tried to keep the costs down in Canyon City to promote growth here."

Fischer also commended the time and effort Ward has put into both advertising and cleaning up the lots prior to sale.

"He's advertising it and he's promoting it very well," he said. "There is more interest in it than there has been in years. For Canyon City, this is terrific."

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