

Baker County Library District

Board of Directors

Regular Meeting Agenda

Monday, Dec 14, 2020, 6:00 – 8:00 pm

Virtual Meeting held electronically via GoToMeeting

Kyra Rohner, President

Please join from a computer, tablet or smartphone.

<https://global.gotomeeting.com/join/484041405>

You can also dial in using your phone.

United States: [+1 \(571\) 317-3122](tel:+15713173122) Access Code: 484-041-405

- | | |
|---|---------|
| I. CALL TO ORDER | Rohner |
| II. Consent agenda (ACTION) | Rohner |
| a. Additions/deletions from the agenda | |
| b. Minutes of previous meeting | |
| III. Conflicts or potential conflicts of interest | Rohner |
| IV. Open forum for general public, comments & communications | Rohner |
| In the interests of time and to allow as many members of the public an opportunity to speak, the board asks guests to limit remarks to five (5) minutes if speaking on behalf of an individual, or ten (10) minutes if speaking on behalf of a group or organization. | |
| V. OLD BUSINESS | |
| a. Report on Pandemic Response Activities | Stokes |
| b. Continuation of Services Plan – Update (ACTION) | Stokes |
| VI. NEW BUSINESS | |
| a. Historic Photo Archive Activity Report | Dielman |
| b. FY20-21 Supplemental Budget 1 [TABLED] | Stokes |
| c. Approval of Matching Funds for Leo Adler Grant (ACTION) | Stokes |
| d. Resolution for Local Option Levy Renewal (ACTION) | Stokes |
| e. OSHA Temp Rule compliance review | Stokes |
| VII. REPORTS | |
| a. Director | Stokes |
| b. Finance | Hawes |
| VIII. Next meeting: Jan 11, 2020 | Rohner |
| IX. ADJOURNMENT | Rohner |

The times of all agenda items except open forum are approximate and are subject to change. Other matters may be discussed as deemed appropriate by the Board. If necessary, Executive Session may be held in accordance with the following. Topics marked with an asterisk* are scheduled for the current meeting's executive session.

ORS 192.660 (2) (d) Labor Negotiations
ORS 192.660 (2) (h) Legal Rights

ORS 192.660 (2) (e, j) Property
ORS 192.660 (2) (a, b, i) Personnel

The Board of Directors meets on the 2nd Monday each month from 6.00 to 8.00p via online webconference software . The meetings are open to the public. Sign language interpretation for the hearing impaired is available if at least 48 hours notice is given.

Library Board Meeting – Annotated Agenda

Monday, Dec 14, 2020, 6:00 pm

Notes prepared by Library Director Perry Stokes

Annotated Agenda

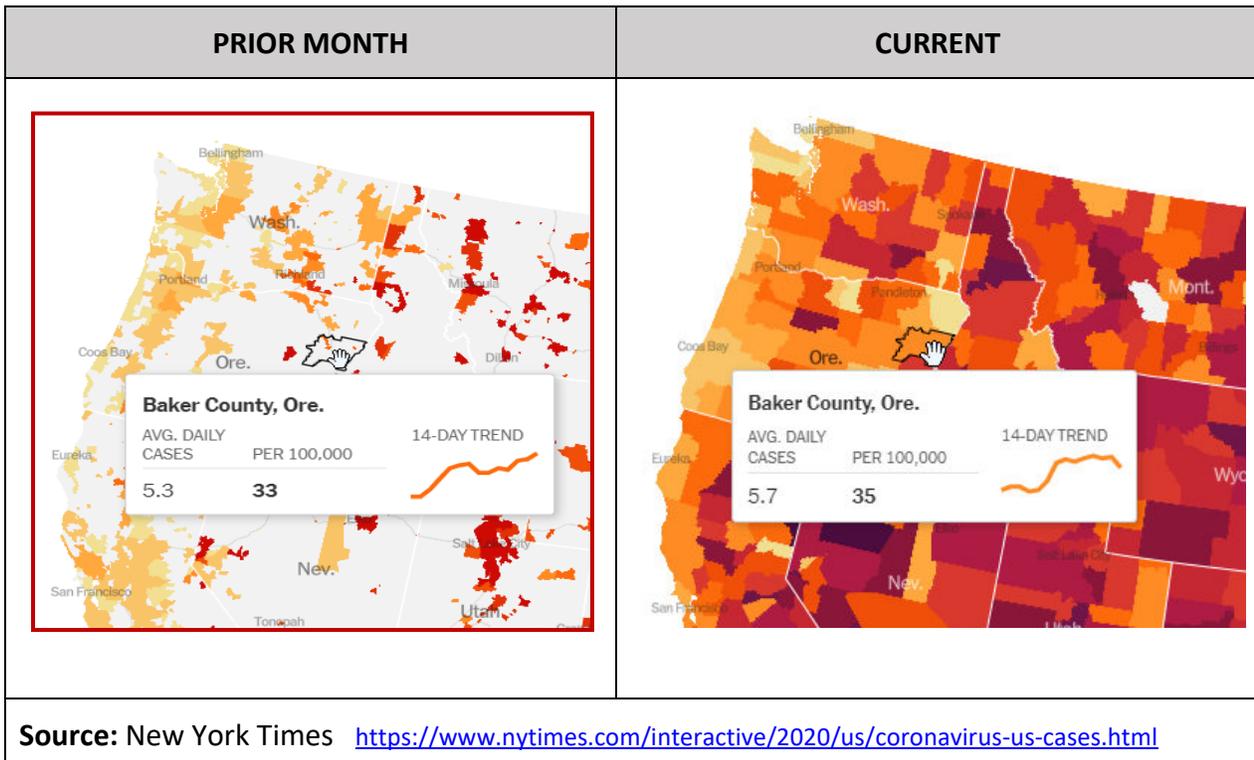
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|--|--------|
| I. CALL TO ORDER | Rohner |
| II. Consent agenda (ACTION) | Rohner |
| a. Additions/deletions from the agenda | |
| b. Minutes of previous meeting | |

Attachments:

- II.b.i. Board meeting minutes, Nov 9 2020

- | | |
|--|--------|
| III. Conflicts or potential conflicts of interest | Rohner |
| IV. Open forum for general public, comments & communications | Rohner |
| V. OLD BUSINESS | |
| a. Report on Pandemic Response Activities | Stokes |

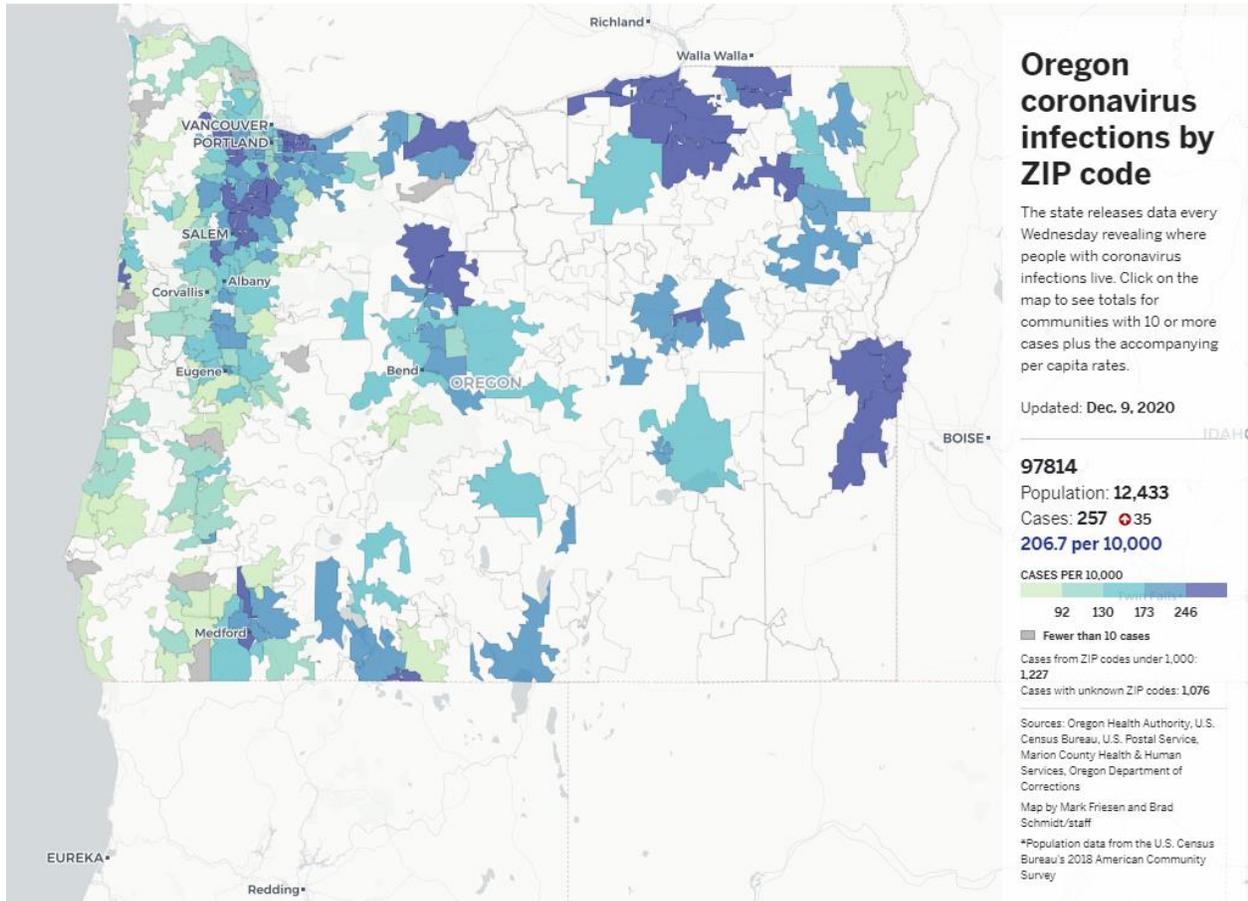
At the Nov 9 board meeting, I reported that Baker County cases were up to 181. As of Saturday, 12/12/20 the case count is at **358 (98% increase)**. With new cases surging statewide, Baker County has dropped to a rank of **fourteenth for cases per capita** with a weekly average rate of 35.4 cases per 100,000 people, and is one of the 25 counties classified in the RED – EXTREME RISK LEVEL under a [new framework](#) announced by Governor Brown that took effect on December 3. Most concerning, Baker currently has the highest test positivity rate in the state as of the latest [12/12 results](#) – Baker, Malheur and Morrow all have rates over 20%. This suggests the true case number rate is much larger than known and community transmission is widespread.



Library Board Meeting – Annotated Agenda

Monday, Dec 14, 2020, 6:00 pm

Notes prepared by Library Director Perry Stokes

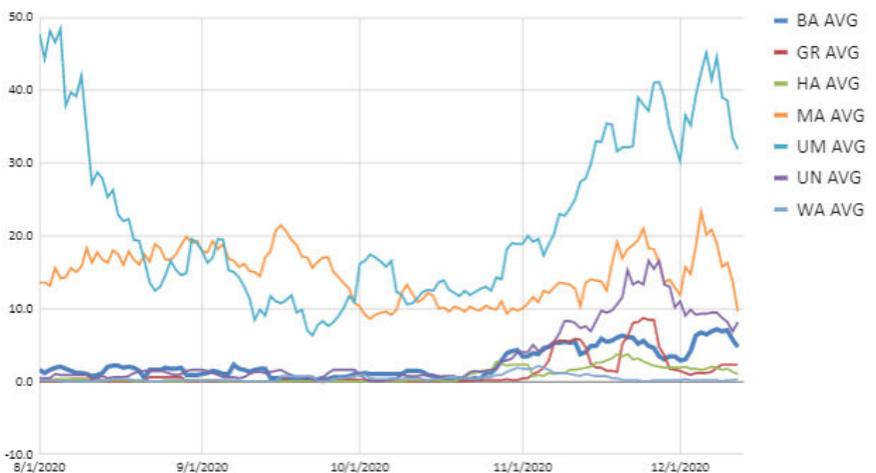


SOURCE: <https://projects.oregonlive.com/coronavirus/cases-by-zip>

On Dec 8, Baker County's rolling 7-day average of new cases reached a record high, and has declined a bit since. Wave patterns are similar in neighboring counties.

In general, Eastern Oregon has a disproportionate rate of new cases per capita. In a rank order of Oregon counties with the highest rate of weekly cases per capita, 10 of the top 15 are Libraries of Eastern Oregon (LEO) members.

ROLLING 7-DAY AVERAGE INCREASE



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Library Board Meeting – Annotated Agenda

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Notes prepared by Library Director Perry Stokes

There is reason for hope, though, as vaccines move toward approval. States are ordering doses and preparing to vaccinate health workers and nursing home residents as soon as next week. An F.D.A. panel recommended the Pfizer vaccine for approval.”

BCLD services are holding steady with limited occupancy, visitation time limits, and use of our drive-up window and downloadable media strongly encouraged.

In recent weeks, Facilities staff Ed Adamson has achieved significant progress on building air quality improvement projects.

- Restored restroom ventilation systems with new fans and filtration system.
- “[Needlepoint Bipolar Ionization](#)” technology is being installed into the HVAC air handling systems at the main branch with community branches to follow.
- Several wall-mount air purifier units are installed at the main branch with priority given to multi-user spaces such as the staff workroom, computer labs, and meeting room.

Upgrade of the HVAC controls is pending shipment of component parts. This rebuild will convert the old analog, pneumatic, mechanical control system with microprocessor-regulated electro-solenoid control, allowing a PC-based application to fine control ventilation. It will result in an even air mixture, but modulated according to demand. The current control allows only a binary option of full on, or full off. Now set to full on, it is pulling in a maximum amount of fresh outside air into the building, which is causing staff some discomfort due to cold air flow. Unfortunately, the intermix of heated air with incoming cold air is simply not possible with the system now. The sensors turn on the heat, but the air mixture cools it down significantly. The upgrade will stabilize indoor temps, and conform to CCD recommendations for coronavirus mitigation. The install for the new control system is expected in the first few weeks in January.

b. Continuation of Services Plan – Update (**ACTION**)

Stokes

Attachments:

- VI.a.i. [Continuation of Services Plan](#)

Changes to the CSP update the risk levels to match the new state framework. I will present the changes at the board meeting.

VI. NEW BUSINESS

a. Historic Photo Archive Activity Report

Dielman

At the November meeting, Board member and volunteer Archive Curator Gary Dielman requested time to report on his latest research works involving prominent Baker business owners of Chinese heritage, Jack Eng, and Henry and Annie Wong.

Library Board Meeting – Annotated Agenda

Monday, Dec 14, 2020, 6:00 pm

Notes prepared by Library Director Perry Stokes

b. FY20-21 Supplemental Budget 1 [TABLED]

Stokes

Work on the Supplemental Budget resolution and supporting documents is still in progress and will not be ready for approval at the December meeting. I will provide an updated overview at the meeting.

c. Approval of Matching Funds for Leo Adler Grant (ACTION)

Stokes

Last week, I was notified that Leo Adler Trust Committee and the newly appointed First Republic Trust Company, Trustee that a matching grant has been approved for Baker County Library District up to a total of \$10,000 for “Digitizing Baker County History For Preservation and Greater Access” as described in our proposal and budget.

The proposal was for a multi-year digitization effort to convert our collection of Polk’s City Directories and bound volumes of the Record Courier newspaper to searchable digital images.

To accept the grant funds, BCLD must commit to a 1:1 matching requirement. This is a new feature of the Leo Adler community grants program. I propose that matching amount of \$10,000 be drawn from the Other Uses / Memorial Fund, specifically using the Barger bequest fund which is now less critical for financial support of the district due to build-up of reserve funds.

d. Resolution for Local Option Levy Renewal (ACTION)

Stokes

Attachments:

- VI.d.i. Resolution R04

The Local Option levy will be on the May 2021 ballot for renewal. The district will be seeking to renew the same rate to maintain current services and facilities. The Resolution will mostly replicate the 2016 documents with updates to dates and dollar amounts, which the County Assessor will help develop. The rate of \$0.249 will remain the same, providing about 1/3 of the General Fund budget revenue. In a sense, proceeds from the permanent rate covers personnel costs and the local option levy funds materials & services.

BCLD LOCAL OPTION LEVY (\$0.249/\$1,000)		
	Projected	Actual
2014-2015		\$255,746
2015-2016		\$268,684
2016-2017	\$273,276	\$254,356
2017-2018	\$277,937	\$270,030
2018-2019	\$282,666	\$254,507
2019-2020	\$287,466	\$335,077
2020-2021	\$292,336	\$365,683
2021-2022	\$297,277	
TOTAL	\$1,437,682	

(\$18,920)
(\$7,907)
(\$28,159)
\$47,611
\$73,347

Displayed here is a table showing prior levy estimates compared to actual collections. Note that last year was the first to exceed estimates and is projected to again this current year.

Library Board Meeting – Annotated Agenda

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Notes prepared by Library Director Perry Stokes

The first step in the process is for the board to approve a resolution. In the board packet, I've included the prior levy measure ballot filing. The descriptive paragraph will need to be updated. Board members are welcome to assist with developing that.

e. OSHA Temp Rule compliance review

Stokes

Attachments:

- VI.e.i Oregon OSHA blog post (Nov 12 2020)
- VI.e.ii Oregon OSHA Covid-19 Temporary Rule Fact Sheet

From the [Oregon OSHA blog](#):

“Stepping in line behind Virginia and Michigan, the Oregon Occupational Safety and Health Administration (“Oregon OSHA”) issued a Temporary Rule Addressing COVID-19 Workplace Risks (“Temporary Rule”) requiring Oregon employers to take certain actions in response to potential workplace exposures to coronavirus (“COVID-19”). Some provisions of Oregon OSHA’s temporary rule go into effect on November 16, 2020 and will remain in effect until May 4, 2021, unless revised, repealed, or extended, while others come later in the year or beginning of 2021. While some requirements in Oregon OSHA’s Temporary Rule will apply to all workplaces in Oregon, the Temporary Rule also has additional requirements specific to employers with more than 10 employees and “workplaces at exceptional risk.”

For full rule details, see the attachment. I'm pleased to report BCLD was already meeting the majority of rule requirements. One new element is the Exposure Risk Assessment which I have completed and intend to present to staff for feedback by email this week. Christine had already crafted an Infection Control Plan for supervisor and employee guidance. As previously discussed, we have been working aggressively to optimize ventilation and HVAC systems. Employee information and training is provided at regular staff meetings with feedback encouraged.

VII. REPORTS

a. Director

Stokes

To be presented at meeting.

b. Finance

Hawes

Attachments:

- VII.b.i. Not yet available.

VIII. Next meeting: Jan 11, 2020

Rohner

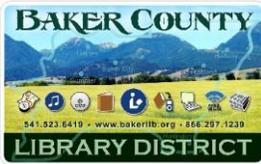
Please let me know if you have any agenda items to request.

- FY19-20 Financial Audit Report
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IX. ADJOURNMENT

Rohner

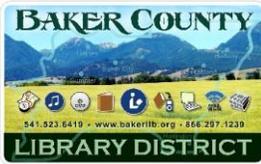
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Baker County Library District Library Board Regular Meeting Minutes

Nov 9, 2020

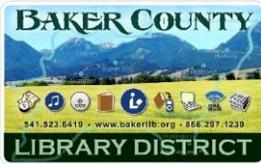
<p>Call To Order</p>	<p>The meeting took place online, utilizing <i>GoToMeeting</i> web conference platform. This meeting represents the Baker County Library District located at 2400 Resort Street, Baker City, Oregon.</p> <p>Attendees included Directors Kyra Rohner, Gary Dielman, and Frances Vaughan; along with Business Manager, Christine Hawes and Library Director, Perry Stokes who hosted the meeting from his office computer. At 6:05pm, with three present, there was a quorum.</p> <p>After greetings and confirmation of attendance, President of the Board, Kyra Rohner, called the meeting to order at 6:05pm.</p> <p>Beth Bigelow logged in at 6:15pm, she had trouble getting logged in and reported that Betty Palmer was also having trouble logging in.</p> <p>Stokes displayed the board packet for all to see in <i>GoToMeeting</i>, starting with the agenda.</p>
<p>Consent Agenda</p>	<p>Rohner asked for any additions or deletions to the agenda. Stokes had one item to add to the agenda under New Business: Review of State Library Statistics Report. She then asked if there were any edits for the minutes. There were no changes to the minutes. Rohner asked for a motion to approve the agenda and the minutes from the last meeting. Dielman made a motion to approve the consent agenda; Frances seconded; motion passed unanimous (3 yeas, motion passed unanimous by those present).</p>
<p>Conflicts or Potential Conflicts of Interest</p>	<p>Rohner asked for any conflicts of interest for board members. There were none stated.</p>
<p>Open Forum for general public</p>	<p>Rohner asked Stokes whether he had received anything from the public. Stokes had no communications directed to the board. He shared that he recently ran into a former employee, who stopped him to express how much they appreciate all of the pandemic safety protocols the District has in place. They feel safe when visiting the library. Stokes said the supportive feedback was much appreciated and gratifying.</p>
<p>OLD BUSINESS: Report on Pandemic Response Activities</p>	<p>Rohner moved to Old Business and handed it over to Stokes.</p> <p>Stokes reported on the pandemic situation. Today, Baker was added to a 2-week pause list that includes several counties in Oregon where things are not trending well. He displayed a graph of rolling 7 days' average of new cases; Baker County is really jumping up, Union and Grant Counties are also climbing. The state operational guidelines for counties included in the "pause" do not</p>



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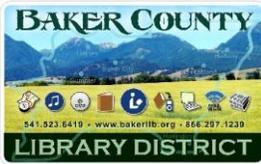
	<p>necessitate changes to our service plan. Library protocols are well within the criteria. If things get substantially worse, a step back in service level could involve moving to a staggered staff schedule with groups A and B coming in, reverting to Drive-up/Curbside service only, and shortening hours.</p> <p>Meanwhile Stokes is focusing on getting building air systems improved. BCLD Facilities Specialist Adamson has begun installing powerful wall-mount air purifier units. There is one in the meeting room, and one in the staff workroom. Adamson found that some restroom ventilation systems are already in place, but appear to have been deactivated at some point. Motors had failed and not been replaced. Restoration will involve electrical work. He has been struggling to find suitable and available motors which has delayed getting them installed. He is confident the systems can be brought back online.</p> <p>Adamson is looking into upgrading the HVAC control system to resolve issues with regulating the volume of fresh air coming in. Stokes is confident this and many other measures will qualify for pandemic CRF grants. SDAO has been urging all districts to aggressively utilize the \$250,000 of CRF grant funds allocated to each agency with guidance that the eligibility criteria are very broad. He has been purchasing things to improve signage, facilitate curbside service, telework, sanitation, and public safety.</p> <p>Stokes has purchased electrostatic sprayers for staff to use that will make sanitation efficient. Touchless book drops will help with public safety, additional book trucks with curbside service. He went on to describe other equipment in the plan. This current reimbursement round opens today, closing the 20th. He will start compiling that information this week. Another two rounds were recently added to the reimbursement schedule, extending to the end of December.</p> <p>Beth Bigelow logged in at 6:15pm at this point in the meeting.</p> <p>Stokes reviewed pandemic statistics and trends.</p> <p>There were no questions.</p>
Continuation of Services Plan	Stokes moved on to the Continuation of Services Plan stating that there are no changes to propose since the previous meeting. He had no feedback from the Health Department on the plan and assumes they have been preoccupied with other priorities such as coordinating with the schools.



Baker County Library District Library Board Regular Meeting Minutes

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<p>NEW BUSINESS: Review Library Statistics Report</p>	<p>Stokes has submitted the annual public library statistics report to the State Library. He displayed his spreadsheets of historical data with graphs to show trends. Of course, usage and services statistics for this past year are significantly skewed due to the pandemic. On a positive note, library funding continues to be strong and has been boosted recently with a couple of large tax revenue infusions from new development projects in the county.</p> <p>Looking at data prior to the pandemic impact, total checkouts continue to trending downward, mostly due to fewer DVD loans as people shift to streaming services for their entertainment. Digital loans of eBooks and eAudio were steadily increasing prior to the pandemic and have had a surge of use. On Interlibrary loans, BCLD loaned out more than borrowed which meets Stokes' goal. The number of cardholders has decreased. Volunteer hours has gone down because volunteer participation was suspended in late March. To date, only employees are allowed to in the staff workroom for extended periods. Children's and young adult checkouts are stable. A method to track the number of wireless sessions was recently implemented, but was not available for this report.</p> <p>Stokes summarized by saying the data demonstrates that despite the pandemic, there is still strong demand for library materials and services. Public computer usage has been falling for several years and digital content is increasing. The trend is expected to continue as people use their personal portable computer devices such as smart phones. Libraries will need to increase investment into providing digital conveniences.</p>
<p>REPORTS: Director Report</p>	<p>Stokes gave the Director's report doing a short review of the highlights:</p> <p>Administration/ Budget – Stokes said that he will aim to present a supplemental budget in December rather than at this meeting. Due to various factors, the update will be elaborate and likely require publication. Set up of the Materials Recovery Service trial is in progress.</p> <p>Facilities & Vehicles:</p> <ul style="list-style-type: none"> • Stokes was able to purchase a used SUV for district use through the latest OTEC surplus vehicle auction. The district now has a 2002 GMC Yukon Denali bought for around \$7,900. Adamson intends to sell the old 1986 library pickup and wants to find a trailer for the Denali to haul materials to the dump. • The reflective window tinting is installed on the south eastern side. It has the mirror reflection on the outside for privacy and UV/solar protection and does look a little darker during the day.



Baker County Library District Library Board Regular Meeting Minutes

Nov 9, 2020

- Bookmobile – Adamson wasn't able to find a used generator, so a new one will be purchased. Stokes is confident it will qualify for CRF grant reimbursement, as well, since it is a critical air ventilation element.
- The water heater at the main branch was leaking and failing, so will be replaced that with a tankless unit.
- The radon fan installed in the children's area is operational. It has dropped radon levels by 2 points and testing continues. Levels will need to drop a more to meet regulations. Additional fans and vents may be necessary.

Personnel: Our lead Haines staff has resigned to finish up a school program. Diana intends to fill the hours with existing staff for now.

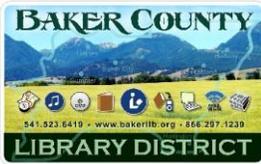
Programs & Services:

- Youth services staff reported that the Summer Reading Program had good attendance despite being a completely online program.
- Baker branch traffic remains steady at about 550 each week.
- In lieu of the Free Comic Book Day which was canceled in May, BCLD participated in an outdoor Trick or Treat event at the Sunridge to hand out comic books and candy. It was reportedly attended by about 1,500 people.
- We are giving a box of donated books to the jail.

Safety & Security –staff have had a few issues with non-compliance wearing face masks, and one potential exposure instance at a branch. The district does not require health survey or temperature checks for people visiting the library. But if there are observable symptoms consistent with COVID-19, the visitor will be asked to leave the building and use our curbside or window services. Stokes will be crafting a handout for staff to provide patrons in such instances. He also bought a few N95 masks for staff to use in such high risk situations.

Technology –

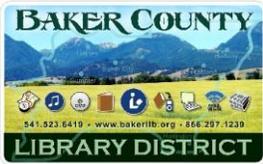
- The email system went offline for a couple days. Jim has worked on troubleshooting the issues with the host and learned that our email platform is antiquated. It has met our needs, but needs to be modernized primarily for security and compatibility with newer technology protocols. Migration to a new platform will involve a significant expense, and annual hosting fee is expected to be greater.
- Stokes has also directed Jim to find a wireless printing system for the public to use. That will be another annual subscription cost.



Baker County Library District
Library Board
Regular Meeting Minutes

Nov 9, 2020

<p>Finance Report</p>	<p>Stokes displayed the financial report in <i>GoToMeeting</i> and scrolled through for the board to follow along. The reports were included in the board packets. Hawes provided a narrative:</p> <p>The General Fund received tax turnovers of \$84,256.78 on November 2. Historically there are 2 or 3 turnovers in November. No other noteworthy revenues. Personnel Services is at 39% spent and is on target with budget. In Materials & Services, noteworthy checks written at the end of October included OTEC \$7,863.92 to purchase the GMC Denali, Comprise Technology \$3,169.00 to renew the SAM subscription, and The Windshield Doctor \$4,000.00 to install window shading on the library building east facing windows. Noteworthy checks written today include Sage System \$13,396 for annual membership, Clary Business Machines \$11,000 for 8 wall mount air sterilizers, Oregon Government Ethics Commission \$548.87 for the annual fee, and Computype \$618.11 for special library book spine labels. The City of Sumpter has recently submitted prior year utilities for the Sumpter library; we agreed to pay 50% of the electricity and heating costs for the museum building in lieu of rent. These payments are for the last 2 fiscal years: FY2018-2019 \$1,604.24 for electricity and heating, FY2019-2020 \$521.96 for electricity (heating expense is supposed to be coming). The General funds portion of the Visa statement is \$11,829.81 with large purchases including Baker Cleaning Solutions \$4,114.09 for handheld sprayers for sanitizing, Workstyle \$1,179.00 for the online platform used for the staff training in October.</p> <p>The Other Funds wrote checks to Visa \$82.23 for book shipping, and 2 checks for commissions totaling \$51.38.</p> <p>The Sage Fund has begun receiving membership revenues, two recent deposits totaled \$90,088. This fund wrote checks for courier services totaling \$1,730.20 and to Visa of 527.33. Visa expenses included GoDaddy subscriptions for domain and web hosting totaling \$398.08 and courier labels \$113.50.</p> <p>Hawes referenced the checking account printout of Bills Paid in November, one for each fund has been included with reports for the board to review. In the General Fund, the 90000 series are the payments scheduled online; In the Sage Fund, the 8000 series are the payments scheduled online. She asked the board to review those items in particular and asked if there were any questions.</p> <p>The completed draft of the Financial Statements has been submitted to the auditing firm last week. There has been no response at this point.</p> <p>There were no further questions.</p>
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Baker County Library District
Library Board
Regular Meeting Minutes
 Nov 9, 2020

	<p>Rohner asked if there were any further questions; there were none. She asked if there was anything others wanted to add to the agenda for next month. Dielman wants to report on the historic photo project next month. He has been working on a project that involves photos Stokes rescued from a local yard sale by the Wong family, former owners of the Royal Café Restaurant.</p> <p>Rohner thanked everyone for switching to online for tonight given the increase in pandemic numbers in Baker County. She wants to continue with an online meeting again next month, from there we will see if things improve.</p>
<p>Next Meeting Date</p>	<p>The next regular Board of Director’s meeting will be December 14, 2020.</p>
<p>Adjourn</p>	<p>The meeting was adjourned at 6:55 pm.</p> <p>Respectfully submitted,</p> <p>Perry Stokes, Secretary to the Board</p> <p>PS/ch</p>

**BAKER COUNTY LIBRARY DISTRICT
LIBRARY BOARD**

Resolution No. 2020-21.04

**Calling an Election to Authorize Local Option
Tax of 0.249/\$1,000 TAV for District Operations
for five years Beginning July 1, 2022,
per ORS 367.525**

Dec 14 2020

WHEREAS, the Baker County Library District is now meeting in regular session for the conduct of business; and

WHEREAS, the District intends to place a Local Option Tax Measure for 0.249/\$1,000 total assessed valuation of Baker County on the May 2021 ballot in order to renew collection of additional operating funds for the General Fund over each of five years; and

WHEREAS, ORS 357.525(1) permits the District to order such election on its own resolution,

Now, therefore be it RESOLVED, that the Baker County Library District Board of Directors place a Local Option Tax Measure for 0.249/\$1,000 TAV of Baker County for each of five years, to begin July 1, 2022, on the May 2021 General Election Ballot, for the purpose of increasing operating revenues available to the District to maintain public library service in Baker County, per ORS 357.410.

ADOPTED by the Board of Directors of Baker County Library District this 14th day of December, 2020 by the following vote:

AYES: _____ NAYS: _____ ABSTAINED: _____

FOR THE BOARD:

Signature

Presiding Officer, BCLD Board

ATTEST: _____

Signature: Perry Stokes
District Secretary

Estimate of BCLD local option levy collections

*Created by Library Director

**To be affirmed by County Assessor

Year	Tax Rate/1000 AV	Growth rate	Estimated TAV/1000	Estimated Tax		M5 Comp rate	Estimated M5 Comp	Estimated Amt of Tax	
				Prior to M5 Comp	M5 Comp				
2019-20	0.2490	3.8%	1,706,727	424,975	16.19%	(68,811)	356,164	Actual	
2020-21	0.2490	3.5%	1,767,104	440,009	10.64%	(46,831)	393,178	Actual	
2021-22	0.2490	3.0%	1,820,117	453,209	10.64%	(48,236)	404,973	Estimate	
2022-23	0.2490	2.0%	1,856,519	462,273	10.64%	(49,186)	413,087	Estimate	
2023-24	0.2490	2.0%	1,893,649	471,519	10.64%	(50,170)	421,349	Estimate	
2024-25	0.2490	2.0%	1,931,522	480,949	10.64%	(51,173)	429,776	Estimate	
2025-26	0.2490	2.0%	1,970,153	490,568	10.64%	(52,196)	438,372	Estimate	
2026-27	0.2490	2.0%	2,009,556	500,379	10.64%	(53,240)	447,139	Estimate	

jackson|lewis.

OSHA Law Blog

Insight & Commentary on Occupational Safety & Health Issues

Oregon OSHA Issues COVID-19 Temporary Rule

By Cressinda D. Schlag on November 12, 2020

Stepping in line behind Virginia and Michigan, the Oregon Occupational Safety and Health Administration (“Oregon OSHA”) issued a Temporary Rule Addressing COVID-19 Workplace Risks (“Temporary Rule”) requiring Oregon employers to take certain actions in response to potential workplace exposures to coronavirus (“COVID-19”). Some provisions of Oregon OSHA’s temporary rule go into effect on **November 16, 2020** and will remain in effect until May 4, 2021, unless revised, repealed, or extended, while others come later in the year or beginning of 2021. While some requirements in Oregon OSHA’s Temporary Rule will apply to all workplaces in Oregon, the Temporary Rule also has additional requirements specific to employers with more than 10 employees and “workplaces at exceptional risk.”

COVID-19 Requirements for All Workplaces

To meet the requirements of Oregon OSHA’s Temporary Rule all workplaces must implement certain preventive measures to help prevent and minimize the potential for COVID-19 exposures and spread of the disease. These measures include:

- Physical distancing, which entails designing work activities and workflow in a way that “eliminate[s] the need for any employee” to be within 6 feet of another unless physical distancing is not feasible.
- Mask, face covering, or face shield requirements, which obligate employers to ensure employees and others at the workplace (e.g., vendors, patrons, contractors) wear a mask, face covering or face shield to provide source control consistent with the Oregon Health Authority’s Statewide Mask, Face Covering, and Face Shield Guidance.
- Cleaning and sanitation efforts of all areas of the workplace under the employer’s control, with defined frequencies such as daily cleaning of the workplace when occupied for less than 12 hours or at least every 8 hours while in use if occupied for more than 12 hours a day.

- Posting of Oregon OSHA's "COVID-19 Hazard Poster" in a prominent location where employees will be expected to see it (e.g., safety board or employee notice board).
- Optimization of ventilation systems no later than **January 6, 2021**, which requires employers evaluate existing heating, ventilation, and air conditioning ("HVAC") systems and ensure they are designed and able to provide ventilation consistent with applicable provisions from the American National Standards (ANSI)/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standards 62.1 and 62.2 (SHRAE 2019a, 2019b).
- Completion of an exposure risk assessment by **December 7, 2020**, with consideration of employee feedback, site-specific concerns, and key employee exposure controls such as ability for employees to work remotely, anticipated physical distancing, impact of non-routine work activities on exposure risk, potential risks hazards created by requirement for employees to wear masks, communication of COVID-19 exposure risks and controls, effectiveness of preventive controls to prevent or minimize the spread of disease, and policies and procedures for identifying potentially sick individuals and removing them from the workplace. Employers with more than 10 employees in the state must record their COVID-19 exposure risk assessment.
- Implementation of an Infection Control Plan by **December 7, 2020**, which details the required preventive controls identified in Oregon OSHA's Temporary Rule and addresses site-specific risks determined during the exposure risk assessment. Employers with more than 10 employees in the state must ensure their Infection Control Plan is in writing.
- Communication and training of employees on COVID-19 matters, including the employer's compliance with Oregon OSHA's Temporary Rule, exposure risk assessment, Infection Control Plan, and applicable COVID-19 policies and procedures.

Oregon OSHA's Temporary Rule notably departs from guidance from the Centers for Disease Control and Prevention ("CDC") and federal OSHA in several ways, so employers will need to be aware of the differences in preventive measure requirements. For example, Oregon OSHA allows employers to require use of face shields as a form of source control, which is contrary to current CDC guidance finding that use of face shields alone is not recommended because of ongoing concerns about their effectiveness. Oregon OSHA's requirement on exposure risk assessments, which contemplates consideration of certain key questions and factors, will also likely be different to what is used for federal OSHA compliance. This is because federal OSHA's concept of an exposure risk assessment focuses on pre-established levels of risk of exposure (e.g., low, moderate, high or very high), which federal OSHA has identified by whether an employee is expected to have direct or close contact with an individual who is known or suspected of having COVID-19.

Apart from prescribed preventive measures, Oregon OSHA's Temporary Rule also requires employers establish a process for notifying employees, which contemplates notifications to (i) exposed employees who

had a work-related contact with an individual who is known to have COVID-19, and (ii) affected employees who worked in the same facility or in the same “well-defined portion of the facility.” Notifications to both exposed and affected employees must also occur within 24 hours of the employer having knowledge that an individual with COVID-19 was present in the workplace. Oregon OSHA’s Temporary Rule even more directs employers to cooperate with the Oregon Health Authority with respect to COVID-19 diagnostic testing for workers and medical removals of an employee because of COVID-19 quarantine or isolation orders.

Additional COVID-19 Considerations by Industry, Workplaces With More Than 10 Employees, and Workplaces with Exceptional Risks

Along with the requirements noted above for all workplaces, Oregon OSHA’s Temporary Rule also prescribes requirements for employers in certain industries, workplaces with more than 10 employees, and workplaces with exceptional risks. If an employer is covered by one of the Temporary Rule’s industry-specific and activity-specific appendices (e.g., Retail Stores, Fitness-Related Organizations, Restaurants, and Law Enforcement) the employer must also implement the preventive measures and requirements noted in the applicable industry specific appendix. Similarly employers with more than 10 employees in the state must have written exposure risk assessments and infection control plans.

Employers operating “workplaces with exceptional risks” are identified in the Temporary Rule as those employers that require workers to perform job duties related to direct patient care, environmental decontamination in a healthcare setting, aerosol generating healthcare or postmortem procedures, direct client service in a residential care or assisted living facility, emergency response activities, personal care activities, or handle COVID-19 infected specimens or materials. These employers must provide infection control training to employees by **December 21, 2020** covering these topics:

- an explanation of Oregon OSHA’s Temporary Rule,
- information on COVID-19 with details on mode of transmission, occupational risks of exposures, and personal risks of developing serious illness following exposure to COVID-19,
- details on the employers exposure risk assessment,
- explanation on requirements under the employer’s Infection Control Plan and implemented preventive measures (e.g., required use of masks, cleaning and sanitation protocols),
- required use of masks, face shields, and personal protective equipment (“PPE”) where applicable, and
- COVID-19 exposure control measures.

This training must be provided by someone knowledgeable in COVID-19 matters and employees’ job duties, in a manner that employees can understand and allow for discussion of questions and answers. Employers

operating exceptional risk workplaces must also build additional components into their Infection Control Plan related to program responsibility and administration, with ongoing evaluation of the plan's effectiveness and regular updates to address changes in operations or potential exposures to a hazard. Finally, Oregon OSHA's Temporary Rule imposes additional preventive control requirements for some workplaces, including screening of all individuals entering a healthcare setting for symptoms of COVID-19, required use of barriers, partitions, and airborne infection isolation rooms where needed to protect against exposures to individuals known or suspected to be infected with COVID-19, and heightened risk ventilation requirements.

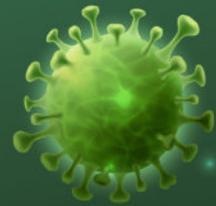
To help employers understand their obligations under the Temporary Rule, Oregon OSHA has published a chart showing the Temporary Rule's application to different workplaces here. Oregon OSHA has also published several workplace advisory memos discussing COVID-19 requirements and is often updating its website with frequently addressed questions and answers.

Following Oregon OSHA's issuance of the Temporary Rule, employers operating in Oregon will need to assess carefully which requirements apply to them and, at a minimum, ensure implementation of the preventive measures required for all workplaces by **November 16, 2020**. Employers should also know that because of slight differences between Oregon OSHA's Temporary Rule and CDC and federal OSHA guidance, safety measures implemented in response to COVID-19 may not be uniform for all geographical locations that the employer operates in.

If you have questions, would like additional information, or need assistance, please reach out to the Jackson Lewis attorney with whom you often work, or any member of our Workplace Safety and Health Team.

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Oregon OSHA's COVID-19 Temporary Standard for All Workplaces Provisions with Delayed Effective Dates



Introduction

This fact sheet outlines the provisions of Oregon OSHA's temporary standard for COVID-19 (OAR 437-001-0744) that have delayed effective dates and that are applicable to all employers and all workplaces. Used in combination with Oregon OSHA's other [COVID-19 fact sheet](#) and [additional resources](#), this document will help employers better understand the intent of the temporary rule and how to come into compliance with its requirements.

Exposure risk assessment

OAR 437-001-0744(3)(g)

Effective Date: Dec. 7, 2020

Oregon OSHA's temporary rule for COVID-19 requires all employers to complete an exposure risk assessment. When completed correctly, an employer's assessment will identify hazards and risk factors that contribute to the potential exposure of its workers to COVID-19. This multilayered determination requires an employer to consider how different types or classifications of employees may have varying exposure risks based on their assigned job duties, work setting, or both. For example, in a hospital setting, there could be a wide variety of employees (physicians, nurses, social workers, janitorial staff, accountants, researchers, etc.) who work at the same establishment. Some of these workers may be responsible for performing higher risk job duties such as direct patient care or aerosol-generating health care procedures. Other employees at the same location may be responsible for working in lower risk office settings, such as the billing department or dining hall outside of patient treatment areas.

By identifying those COVID-19 hazards specific to their employees and their work environment, employers can take steps to eliminate or otherwise minimize those exposure risks. A well-developed risk assessment also helps the employer determine if its existing hazard control measures are adequate to protect workers or if more precautions need to be implemented. Employers are required to seek employee participation and feedback on the risk assessment. This can be achieved via a safety meeting, safety committee, supervisor, process negotiated with the exclusive bargaining agent, or any other similarly interactive process.

Note: Oregon OSHA does not require employers to submit their COVID-19 exposure risk assessment or infection control plan (discussed below) for review or approval by the division. Each employer needs to complete both the exposure risk assessment and infection control plan and, if required to do so under the rule, record the exposure risk assessment and infection control plan in writing.

Infection control plan

OAR 437-001-0744(3)(h)

Effective Date: Dec. 7, 2020

Once its exposure risk assessment is completed, the employer needs to develop and implement a COVID-19 infection control plan. Like a coach's playbook, once established, this plan will serve as an employer's tactical guide and strategic approach to mitigating employee exposure risk to COVID-19. This infection control plan requires an employer to outline the specific steps it will take to provide its workers with clear instructions about workplace policies on physical distancing,

facial coverings, and sanitation. This plan must include information about how employees will be adequately trained to recognize and appropriately manage COVID-19 hazards in their workplace and what steps will be taken by the employer to notify employees if they or their co-workers have had a work-related exposure to someone with COVID-19.

Employee information and training

OAR 437-001-0744(3)(i)

Effective Date: Dec. 21, 2020

OAR 437-001-0744(3)(i) outlines the employee information and training requirements for all employers. This instruction must be provided in a language and manner that is understood by the employer's workers. Also, employers must provide their workers with an opportunity to provide feedback about this COVID-19 training. Establishing clear lines of communication and encouraging frequent employee feedback are essential to any successful training program.

Note: There are more employee training requirements for those workplaces identified under OAR 437-001-0744(1)(c) as being "workplaces at exceptional risk." Specifically, infection control training (OAR 437-001-0744(4)(a)) must be provided to employees whose job duties put them in an exceptional risk work environment as defined by the temporary rule. This extra training for employees in exceptional risk workplaces must be provided in addition to (not in lieu of) the standard employee training requirements above.

Ventilation requirements

OAR 437-001-0744(3)(f)

Effective Date: Jan. 6, 2021

Good ventilation is an essential engineering control that can reduce the spread of COVID-19 in indoor settings. However, not all indoor workplaces or heating, ventilation, and air conditioning (HVAC) systems are constructed equally. This difference in design can have a significant effect on how air moves and is filtered or purified in the workplace. All employers are required to ensure, their existing HVAC system is set to optimize the amount of fresh air

circulated through the indoor workplace. This increase in fresh air serves to lower, or dilute, the concentration of indoor pollutants, as well as any infectious agents that may be airborne in the environment, including SARS-CoV-2, the coronavirus that causes COVID-19.

Note: There are more ventilation requirements for certain health care settings. By Jan. 6, 2021, these advanced ventilation requirements must be implemented in addition to (not in lieu of) the standard ventilation requirements that are applicable to all workplaces.

Building operators

OAR 437-001-0744(3)(e)

Effective Date: Nov. 23, 2020

Oregon OSHA recognizes that not all employers own the buildings they occupy or use for work. This is why OAR 437-001-0744(3)(e) was developed. The rule ensures the [basic sanitation requirements](#) are implemented in those work settings where the employer is leasing a building or workspace from a third party, such as a property management company. Specifically, even though they may not have their own employees working at this location, all building operators in Oregon are required to comply with this provision.

